

STATEMENT

This thesis is solely the work of its author. No part of it has previously been submitted for any degree, or is currently being submitted for any other degree. To the best of my knowledge, any help received in preparing this thesis, and all sources used, have been duly acknowledged.

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August 2014

A handwritten signature in black ink, appearing to read "E. Demirel", written in a cursive style.

Politics of Silence: Aporias and Temporality of the Political

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Politics of Silence: Aporias and Temporality of the Political	1
Acknowledgment	5
Introduction: <i>Archē and Archive</i>	6
1.1. <i>The Rule: Making and Following the Future</i>	9
1.1.1 <i>Rule and Time</i>	13
1.1.2. <i>Opening to the Future: A Derridean Critique</i>	16
1.1.3. <i>Rule and History: Speech and Silence</i>	21
1.2. <i>The Archive: We are the Sovereign</i>	27
1.2.1. <i>Archive: the sovereign 'we' and its norms</i>	28
1.2.2. <i>Archive: a critique of the privileged past and the embodiment of norms</i>	32
1.2.3. <i>Archive: embodiment of norms</i>	34
Conclusion: <i>The Archive</i>	35
Chapter 1: <i>Politics of the Unsayable: Aporias and Temporality of the Political</i>	39
1.1. <i>The Lawful Mob: The Present and the Future</i>	39
1.1.1. <i>The Unsayable: The Past, and the Present</i>	42
1.1.1.2. <i>Emergency of the Law, Emergence of the Self</i>	42
1.1.1.3. <i>Future and Futurity</i>	45
1.2. <i>Validity or Mobility of Speech</i>	47
1.2.1. <i>Justification, Agreement, Identity: selfless language games</i>	48
1.2.2. <i>Spontaneity, Disagreement, Identity: futural language games</i>	51
1.3. <i>Coming before the law: aporias</i>	53
1.3.1. <i>Becoming a mob or the people</i>	56
1.3.2. <i>Democracy-to-come: a queer claim</i>	59
Conclusion: <i>The Past, the Present, and the Future</i>	63
Chapter 2. <i>Address of the Law: It Is We Speaking in You</i>	68
2.1. <i>The "me" and the "we"</i>	72
2.1.1. <i>The Structure of Agreement: the self and the other</i>	76
2.2. <i>A Private Self of One's Own: Silence as Wish-To-Say</i>	79
2.2.1. <i>A Lawless Remnant: character</i>	80
2.3. <i>A Loss and Disruption to Sovereignty: temporality of character</i>	84
2.3.1. <i>Mob-ility of Speech Again: A General Other in the Extreme</i>	86
2.3.1. <i>Perils of the Voice: Mob and Identification</i>	86
2.3.2. <i>A Mob at Work: Constitution-Making</i>	89
Conclusion: <i>The Law of Others</i>	94

<i>Chapter 3. The Remnant of the Law: Justice to the Silenced</i>	98
3.1. <i>The 'We': What Comes Before the Law</i>	104
3.1.1. <i>The Law as an Enigmatic Address: Indebtedness</i>	105
3.1.2. <i>Obligation: Demand, Authority, Sovereignty</i>	108
3.2. <i>Silence of Authorities: The Law Does Not Come From 'Us'</i>	110
3.2.1. <i>The Unjustifiable 'Ought': Scandal of Authority</i>	111
3.2.2. <i>The Ought: Silence and Force of the Sovereign</i>	114
3.3. <i>Differend: 'Il y a,' or 'Wstawać'!</i>	117
Conclusion: <i>The Remnant Remains a Call</i>	126
<i>Chapter 4. The Visible and the Audible: Justice in the Community of Sense</i>	130
4.1. <i>Response to the Insensible Before Us: Ethics</i>	137
4.1.1. <i>Response to the Undecidable: Responsibility for the Past</i>	138
4.1.2. <i>Response to the Undecidable: Responsibility for the Future</i>	142
4.2. <i>Justice to the before: Testimony</i>	144
4.2.1. <i>Testimony to the Enigmatic Force of the Law: Exposure</i>	146
4.2.2. <i>Testimony to the Before: Bodily Traces</i>	150
4.3. <i>Response and Responsibility: Poetics of Carelessness</i>	154
4.3.1. <i>(Ir)responsibility and Sovereignty: Poetics and Obligation</i>	155
4.3.2. <i>Response and Receptivity: Voice and Silence</i>	158
Conclusion: <i>Ethico-Poetics of the Sensible</i>	162
<i>Chapter 5. The Visible and the Audible: Mobility of the People</i>	165
5.1. <i>The Sensible 'We': The Mobility of the Political Body</i>	169
5.1.1. <i>Constitution of the 'We': Identification</i>	169
5.1.2. <i>Anonymous Re-Constitution of the 'We': Dis-identification</i>	172
5.2. <i>The Archive of the Sensible: Justification of the "We"</i>	175
5.2.1. <i>The People are (not) the 'We': Archē and Archive</i>	175
5.2.2. <i>The 'We' and Silent Others among Us: Constitution of the Community</i>	179
5.3. <i>The Insensible: Injustice, Wrong, Disagreement</i>	183
5.3.1. <i>The Insensible: Demand for Justice</i>	184
5.3.2. <i>The Insensible: Logic of Equality</i>	186
Conclusion: <i>Literarity of Mobility</i>	188
<i>Chapter 6. The Ethical and the Poetic: To Recognize a Wish-To-Say</i>	192
6.1. <i>Recognizing the People</i>	198
6.1.1. <i>Recognition: The Subject as the Stranger</i>	198

6.1.2. <i>Recognition: The Self as the Other</i>	202
6.2. <i>Recognizing the Sovereign: Mute Poet of the People</i>	204
6.2.1. <i>Recognition as Misrecognition: Sovereignty</i>	204
6.3. <i>Recognition as a Poetic Act of Speech</i>	208
6.3.1. <i>Recognizing a Wish-To-Say</i>	213
6.3.2. <i>Recognition: Silent Image</i>	214
6.3.3. <i>Recognition: Imag(in)ing</i>	217
Conclusion: <i>Recognition as a Poetic Investigation</i>	219
Chapter 7. <i>The Ethical and the Poetic: Wish-to-Live</i>	224
7.1. <i>Strange Lives: Queering the Sovereign 'We'</i>	229
7.1.1. <i>The Strange Constitution of the Sovereign 'We'</i>	230
7.1.2. <i>Re-Constitution by Strangers: Performative Re-Iteration</i>	234
7.2. <i>Strange Survivals, Strange Ghosts, Strange Words: Hauntology</i>	239
7.2.1. <i>Survival of the Stranger within and among Us</i>	239
7.3. <i>Survival as a Poetic Struggle over Life: Performative Re-Iteration</i>	243
7.3.1. <i>A Stranger Who Does (not) Survive: Antigone Antagonizing the People</i>	245
7.3.2. <i>Antigone's Present</i>	247
7.3.3. <i>Antigone's Future</i>	249
Conclusion: <i>Wish-to-Live Peacefully</i>	254
Chapter 8. <i>Conclusion: Wish-to-Hear</i>	257
8.1. <i>Difference, Indifference, Violence: Of the Law</i>	260
8.1.1. <i>On Violence: Temporality of Politics</i>	261
8.1.2. <i>The Frame and the Image: The Queer Acts of Speech</i>	265
8.2. <i>Justice to the Silent Ghost</i>	271
8.2.1. <i>In and Outside the Temporality of Politics: Dispersion as Condition of Justice</i>	272
8.2.2. <i>Justice to the Particular: Universalism and Temporality</i>	277
8.3. <i>Face, Life, and Death</i>	283
8.3.1. <i>The Saying of the Face</i>	283
8.3.2. <i>Wish-to-hear: The Face as Our Own Voice</i>	288
Conclusion: <i>An Otherwise "We"</i>	291
BIBLIOGRAPHY.....	296

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Introduction: Archē and Archive

My thesis takes as its problematic speech and silence, and aims to lay out the dual aspect of representation as a political project of authority and as an ontological answer to what we are. Regarding the former, representative democracy in a certain sense equates politics with self-legislation. Since, however, the legitimacy of law derives from the autonomy of self-representation, I will explore in my thesis how politics is linked to an ontological self-understanding and identity of a people that presumably constitutes the authorising ground of the law. The politics of silence studies blind spots of the deliberative democracy models centred on speech. It explores how new agendas, identifications, and subjects of the political are silenced by the norms of the present. This introduction aims to set out some aspects of the thought I engage with, such as Jürgen Habermas' insights into democracy. It will explore the character of norms, the law, speech-acts, and the representation of the people in the context of Habermas' philosophy, as well as other thinkers I am indebted to, such as Jacques Derrida, Gayatri Spivak, Jean-François Lyotard and Jacques Rancière.

Habermas envisions a consensus democracy of autonomy that relies on discourse to legitimize political decisions by the agreement of all affected. With no socially-transcendent grounds of justification, he argues, one can only authorize the constraints imposed by government through a process of legislating together with all those present. He therefore weaves together the theoretical threads of subjectless speech, action, recognition, authority and legitimacy to give an account of the formal process through which popular sovereignty¹ is achieved and practiced in a valid way through an orientation toward rational agreement.

¹ Although Habermas' main concern is with legitimacy, he expands on legitimacy as a process of autonomous self-realization of the people, i.e., popular sovereignty. Indeed he opts for Kant's (and Rousseau's) understanding of popular sovereignty as autonomous self-realization of will: "...Rousseau and Kant explained autonomy (*Selbstgesetzgebung*) as unifying practical reason and sovereign will in such a way that the idea of human rights and the principle of popular sovereignty would mutually interpret each other" (Habermas, 1994, p. 10).

In this Introduction I will provide a preliminary critique of this version of sovereignty and an introductory account of what I call ‘acts of speech’ that constitute the people. While the sovereignty of autonomy as ‘being subject to the law one makes’ is aporetic² (one is neither inside nor outside the applicability of the law), an ‘act of speech’ in this thesis refers to the situation of legislation where ‘the people’ is subjectified by the utterance of “We are the people.” Rosa Parks’ insubordination will be my main example where the act (un)makes the norm it is (not) subject to by the inventiveness of performativity, and the ‘we’ discursively subjectified contests the tradition of the past. Therefore, as I shall describe it here, speech-acts that are (outside) the norm are *acts of speech* and they open to the future of the subject of the act.

The aporia of (dis)continuity points in the general direction of temporality and in order to make sense of historicity underlying acts of speech, I will turn to Derrida’s understanding of the rule and Spivak’s notion of the history of the oppressed. I will argue these acts have a *futural* structure because their ultimate meaning lies in silence and is undecidable. Silence implies an act or speech to come, an exposure to what comes next, and critical re-working of the history of the situation of discourse that creates zones of unspeakability. Engagement with the past of the situation is futural because it derives a new norm from the silencing principles of the moment: it explores, identifies and re-iterates the norm in order to break with it. In other words, futurity opens to the future of the situation through its past, seeking an otherwise moment where silence is filled up with speech. Moreover, the act of speech will be suggested to constitute a people of undecidable character ambiguously different to its representation, i.e., the archive. The people are not coextensive with their representations because, I argue, the act of sovereignty changes and re-articulates them. Time inherent in these acts is intelligible on the basis of the change they bring about.

² ‘Aporia’ originally meant “no way out,” “a logical cul-de-sac,” or “a paradoxical conundrum.” In my reading aporias are paradoxes that only allows for a thinking according to their internal and conflicting logic. They can only be resolved or ended in time by action, force, and a violent application of creativity.

Temporality intrinsic to an act-of-speech for Derrida is characterized by the openness to what is to come. All formalized structures are threatened by what they foreclose and Habermas' formalized procedure of popular sovereignty cannot give an account of the force of the law it tends to exclude. I argue that the people are the force of the law, being (outside) the norm as the sovereign. The 'self' in the self-rule defers to a future people, always open to change and socio-political transformation, but Habermas takes popular sovereignty to be a stabilized formal procedure of archived identities and rules that does not provide a source for transformation by acts unforeseen by the law. Rosa Parks refused to relinquish her seat to a white person on a racially segregated bus. Rosa Parks' forceful subordination, which was a speech-act exceeding the formal provisions of the law, however, changed what it means to be a people ruling themselves by (un)making the norm. Just like Derrida suggests, hers sought the law outside the law, opening politics of her time to a zone of contestation, change and futural transformation of the society in general.

Rosa Parks was a subordinated member of the white-dominant society that excluded her from participation in politics in the Habermasian sense. Her subordination sparked the Montgomery bus boycott. Montgomery law required black passengers to occupy back rows and give their seats to white persons (Levy, 10, 1998). On December 1, 1955, Rosa Parks, a middle aged black seamstress boarded a local bus. After several stops, the bus driver asked her to give her seat to a white person. When she refused, the driver called the police and she was arrested. "After being booked, Parks called E. D. Nixon, an officer with the all-black Brotherhood of Sleeping Car Porters and the local head of the NAACP, with whom she worked. Nixon, who had fought for years for gradual racial reforms, quickly bailed Parks out of jail. He also asked her if he could her arrest as an opportunity to mount a broader challenge against segregation, in particular by calling for a one-day bus boycott" (*Ibid.*). Later on, Martin Luther King was involved and he gave an address. The boycott was extended for a

year. Finally the Supreme Court ended the segregation on public buses. Although the institutional context, the relations with NAACP, the network of civil rights activists and the involvement of Martin Luther King Jr. should be taken into account when analysing the Montgomery Bus boycott, it was Rosa Parks' individual action that reconstituted the demos because it signified popular sovereignty.

If one interprets Parks' act in light of Spivak's notion of the subaltern, she did not take part in the public dialogue in order to speak rationally aiming for agreement. She rather acted aporetically, being neither inside nor outside the applicability of the law. She exposed the history of the Afro-American people as a constitutional wrong, both exposing their situation and dis-identifying with their status as the oppressed. Her discourse could not be reconciled with the legal discourse of popular sovereignty, but it caused a paradigm shift in sovereignty through a silent act. For Spivak the subaltern do not speak but engage in aporetic acts of speech that can be interpreted as revealing the silent history of the oppressed. I will argue that Habermas' framework of popular sovereignty needs to incorporate the silent acts of speech that change the rules of politics and open them to the return of what is foreclosed from formal political structure. Reading both Derrida and Spivak together, I argue that silence is the opening to what is to come, a future democracy where the excluded subjects of the political are included when they dissent. Rosa Parks became a political subject through the act of speech, exploding and expanding what I call the archive of the political. She enriched the politically acceptable archive of actions, subjectivities and rules.

1.1. The Rule: Making and Following the Future

My interest in the thesis does not lie in a dismissal of the Habermasian framing of deliberative democracies based on ideals like equality, the rule-governed due processes of justice, and freedom of the people. Although this Introduction is a critical work operating within the terms of Habermasian deliberative democratic theory, the following chapters will go beyond the scope of Habermas' thought. I will start with the most common liberal theory,

only to critique it and supplement with other accounts that are incommensurable with the Habermasian framework. Within the scope of the thesis, I will not go into the question of how much the thought of these authors is compatible with each other. What follows instead aims to make visible certain blind spots in this institutional structure, possibly caused by aporias of democracies I shall explain below, with some insights from agonistic theories of democracy. The agonistic democracy models I shall draw on address some of the theoretical weaknesses of their solidaristic counterparts; how equality can be achieved in a factually inegalitarian society; how the *archive*, i.e., over-formalized structures of representation and recognition, may not take into account some demands of justice (like Rosa Parks' insubordination) when they cannot comply with the formal requirements of grievance, or worse, are silenced by the power structure of the society; or how dissent, *too*, should be conceived as a part and parcel of what it means to have a democratic dialogue. I shall also add to these criticisms, solidaristic theories' over-idealization of the present norms, and *presentism*, as a theoretical bias.

Agonist theories' chief misgiving is probably that they do not answer the question of how dissent can be incorporated into, or reconciled with the formal structure of solidarity, agreement, rules, institutions and daily limitations of life. Perhaps the robustness of our democracies can be measured by how dissent –which is “costly”– is “handled”; whether by a change in the law, culture, or sensibility toward some demands that may not make sense to the majority, whether it is taken as a people's democratic response to a wrong that demands redressing. My methodology is not eclectic, but revolves around the conceptions of justice in each theory synthesized accordingly. The authors I engage with have at some points irreconcilable views on democracy. It is unimaginable to bring together, say, Habermas' understanding of sovereignty with Lyotard's views on authority but the point is to take the best from each theory to arrive at a robust democracy free of inequalities, domination,

particularity, and, violence. A robust democracy can be defined through the attainment of ideals such as equality, freedom, maximum participation socio-political life free of violence. The “robustness” of a democracy, to be sure, cannot be manifested by anything other than a “better” sense of justice to all who demands it. In this sense my methodology combines a procedural justice with demands for justice such as Rosa Parks’ insubordination. Central to the thesis I shall suggest here is the idea that *both agreement and disagreement are vital to a robust democracy*.

Habermasian democracy is centred on agreement but also, I will argue, reduces speech to a confirmation of the present norms that overlook the world-disclosing performativity of ‘We are the people.’ A speech-act³ is usually taken as an utterance that also performs an action and constitutes what it refers to; “This is the law” both states and makes the law through its performativity. A speech-act also has “conventions,” or rules it has to follow in order to successfully perform an action. Rule-making, i.e., legislation, however, is a form of grand speech-act that involves, for Habermas, public dialogue of all where the people seek to justify their claims (1989a, 151-152). The conditions under which a claim can be justified (Habermas, 1998a, 360-370) are truth, truthfulness and rightness. Habermas’ starting point, therefore, is the primacy of the communicative use of language over and against other uses.⁴ But on my reading, the conditions of justifiability coincide with the rules speech-acts need to follow: what can be said is limited by these conditions that put claims to a test of universalization.⁵ The undue limitations of ‘what can be said’ exclude speech-acts that go

³ For an introduction, see Austin, *How to Do Things with Words*, 1962, 1-5; *Performative Utterances*, 1970, 233-252; and *Performative Constative*, 1965, 22-33. Also see, Searle, “What is a Speech Act?,” 1965, 231-239, and Habermas, *On the Pragmatics of Communication*, 1998, 56-62; 72-94.

⁴ “This approach begins with three types of idealized speech acts oriented toward mutual understanding (constative, expressive, and regulative), their concomitant speaker attitudes (objectivating, expressive, and norm-conformative), and their corresponding validity claims (truth, truthfulness, and rightness).” (Lee, 2002, 408)

⁵ These conditions are intelligibility, truth, rightness, and sincerity, in a double linguistic structure of propositional content and illocutionary force that applies *universally regardless of the content* (Habermas, 1998a, 82-85). The illocutionary element is a statement of tacit commitment to the obligations to a hearer, such as being sincere, reasonable, and just in providing reasons why the utterance should be valid. In return, the

beyond and alter these conditions. If all agree on it in principle, it is justified and can be made a norm⁶ but the sovereign people are (outside) the norm. Rational discourse that follows rules, in other words, characterizes the process of rule-making, i.e., legislation in democracies, and it has its own rules.

Democratic legislation as a speech-act for Habermas is also defined by self-rule interpreted in intersubjective terms, i.e., sovereignty as the all-encompassing rationality of self-legislation (2002a, 152-154): In Habermas' framing of sovereignty, "the concept of sovereignty remained bound to the notion of an embodiment in the assembled, physically present people ... But the "self" of the self-organizing legal community here disappears in the subjectless forms of communication that regulate the flow of deliberations in such a way that their fallible results enjoy the presumption of rationality" (1994, 9-10). Sovereignty implies authority and "this authority emerges from the citizens' power produced communicatively in the praxis of self-legislation" (1994, 2) where the people, following the rules of speech-acts, make the rules they follow, and, in this process of self-rule, constitute themselves as the sovereign. To the extent that a speech-act constitutes what it refers to, legislation is the speech-act that constitutes the people. When unrecognized groups with justifiable claims make a demand to be included into the people, the speech-act turns into a negotiation; to speak, for Habermas, is also to seek agreement with a diverse socio-political identity that demands recognition and inclusion (1993a, 130), and thus anyone in the dialogue hopes to

hearer agrees to engage in a dialogue. Locutionary content on the other hand refers to objects and relations amongst them in the world interpreted through a certain framework. "In raising claims to validity, speakers and hearers transcend the provincial standards of a merely particular community of interpreters and their spatiotemporally localized communicative practice" (Habermas, 1993, 52). Ideally, validity claims are justifiable only if they are utterances with propositional content a) the existential presuppositions of which are satisfied universally (Habermas, 1979, 2-5) and b) that yield a belief that guarantees successful action and practical certainty (Habermas, 1998a, 364).

⁶ The principle of universalisability and that of discourse ethics, when taken together, indicate a salient affinity to the Categorical Imperative: The norms in a pluralist society cannot be deemed legitimate "[u]nless all affected can freely accept the consequences and the side effects that the general observance of a controversial norm can be expected to have for the satisfaction of the interests of each individual" (Habermas, 1990a, 93; emphases original) and "only those norms can claim to be valid that meet (or could meet) with the approval of all affected in their capacity as participants in a practical discourse" (*Ibid.*).

finally identify those who 'live differently' and integrate the new life form into the catalogue of acceptable identities that can be acted out in the lifeworld (*Ibid.*). The speech-act that is the people, I argue, constitutes an archive of representation, one that serves as the present limit to the future and that distributes what can be said by anyone among 'us'—the norms.⁷

In the next section I will first introduce the situation of discourse that is co-extensive with legislation for Habermas. However, I will argue that rule-making is predicated on rule-following, and hence paradoxical, groundless and unjustified. Here I will also formulate acts of speech that aporetically (un)make the norms they are subject to, illustrating my points with Rosa Parks' civil disobedience.

1. 1.1 *Rule and Time*

Discourse aims at agreement of all and the rule agreed on by all states what can (not) be done and said. Making the rule by public discourse has its own rules as it takes the form of a speech-act (Austin, 1962, 1-2) that precedes, enables and limits other speech-acts characterized by the act of following the rule. Early Habermas names this procedure The Ideal Speech Situation and the key to effective working of this procedure of *justification* is homogeneity. Wittgenstein reminds us that the "use of the word "agreement" and the word "rule" are *related* to one another...[and the] use of the word "rule" and the use of the word "same" are interwoven."⁸ Where there is no sameness, democratic discourse is defined by plurality, heterogeneity, and possible disagreement *as a rule*.

When the norm is wrong,⁹ the people suffer its violence, either turning a blind eye to the unliveable conditions it forms, or finding themselves in a "situation" of discord, disagreement, and negotiation. In my thesis I pursue the traces of this situation lived by the

⁷ I define norms as the socio-politically or legally enforced framework of what is a proper, acceptable thing for a subject to feel, think, say and do. They certainly incorporate the positive law but also involve unwritten rules and principles of social life enacted by socio-political pressures of all forms.

⁸ Wittgenstein, Ludwig, *Philosophical Investigations*, 224, 86^e.

⁹ When the limitation put in place by the norm is undue, unequal, biased, violent, authoritarian, the norm can be said to be wrong; in fact any norm that sets an unequal power relation in life is unjust and wrong.

people as theorized by Habermas' shift from Kantian regulative "Ideas," to idealized presuppositions of communicative action in a totality of the systems of communication. He offers an account of The Ideal Speech Situation as a power- and violence-free situation of uninhibited freedom, universality, and rationality. Although his account is derived from the ideal Kant suggests, he re-formulates it in terms of actual socio-political practices and institutions. His formulation is based on how "the transcendental tension between the ideal and the real, between the realm of the intelligible and the realm of appearances, enters into the social reality of situated interactions and institutions" (2003, 84). I argue that this "situating" of the ideal justificatory process of rule-making within the actual public sphere is re-oriented toward speech-acts and de-centralizes "the subject" impossible to totalize as a homogenous, monolithic "people" living behind what Rawls calls "the veil of ignorance."¹⁰ Indeed it is through an investigation of democracies' relation to what is behind the veil, i.e., identities, violence, sensibility, and situatedness in a lifeworld of appearances that I shall critique the rule with a view to its temporality.

The rule can be defined as the (un)justifiable "must" of a political order, but the "necessity of this 'must' has a Wittgensteinian rather than a Kantian sense," (Habermas, 2003, 86). Habermas borrows from Wittgenstein sense of normativity of learned, rule-governed, and conditioned life, a shared life conditioned by appearances, forms of perception, ways of seeing, hearing, responding, thinking, talking, and acting *always already* in place and enforced by this necessity. In replacing the transcendental conditions with the life-worldly ones, Habermas lists the Kantian "cosmological idea" of "All" as the analogy to a *common objective world* presupposed in communicative action; the "idea of freedom," which is spontaneity of self-legislation in Kant, as *rationality*; the "totalizing movement" as *unconditionality of claims*, and finally "Pure Reason" itself as the *inter-subjective realm*

¹⁰ Rawls places the parties to the dialogue under a theoretical construction that deprives them of knowledge of their identities and other specifics of the situation that would advantage or disadvantage them; see Rawls' *A Theory of Justice*, 1971, 16-18.

(Habermas, 2003, 87). The idea of "All" for Kant has a dual role; epistemologically, it signifies the (im)possibility of totality of possible objects, and politically, it gestures toward the horizontal *telos* of a possible Realm of Ends where all human beings *must* take part in legislation.¹¹ Here it is re-conceived by Habermas as a public sphere and a procedure that filter out violence and provides the space to justify *rationally acceptable* claims. Given that "the transcendental subject loses its position outside time and space and is transformed into a multitude of subjects capable of speech and action" (2003, 88) situating rule-making in a subjectless public discourse where claims and demands are made, Habermas further explains,¹² implies that the law becomes the contingent, groundless and unjustifiable discursive *horizon* of the rationally acceptable. Not only the law, but also the norms of legislation are subject to the test of justification, and the people are the only yardstick of justifiability that they have.¹³ The law regulates the future actions and thus becomes a *regulative ideal of the future*. That is why, futurity, i.e., the *temporal* horizon of the people is also the site of negotiation of the law.

In this section I aimed to produce a charitable reading of Habermas. Habermas admits that the interpretative gap between justification and rational acceptability "cannot be closed definitively within discourse" (2003, 92), opening the people to the horizon mentioned above. Therefore, "[a]s soon as we act out of 'respect for the law' or 'with an orientation to reaching mutual understanding,'" (2003, 97) he contends, we could proceed *as if* we can agree

¹¹ See Kant's *Critique of Practical Reason*, Chapter II where "[w]e are indeed legislating members of a kingdom of morals possible through freedom and presented to us by practical reason for our respect" (1993, 83).

¹² The implications of 'situatedness' are thus (a) internalizing transcendental idealism, (b) making the concept of truth a regulative idea (justifiability rather than correspondence to reality) and finally, (c) contextualization of reference (mainly addressing by naming) in the lifeworld. Yet one may also argue that the "reality" as opened up by propositional truth is divorced by Habermas from the noumenal world, which is the Kantian "ground" of law, and he begs the question of justification by presuming "a practice that copes with reality" (90, 2003) as opposed to mere appearances to elucidate the success of speech-act, which is none other than practice.

¹³ That general will can always err of course indicates the idea of reason is distinct from the people. Nevertheless even if reason is irreducible to the people, its fallibility also shows it to be grounded in people alone. Subjecting norms to the test of rightness/wrongness is always performed by people with no external criterion.

on the law, for the declaration of the law is a performative act of speech. In other words, we act *as if* the law is justified, but the universalizing movement remains the gesture of as-if; we speak *as if* it is founded by the speech-act that constitutes what it refers to but there is always a reference and opening to the future. The foundation of the law turns into a horizon of the people constituting themselves in time. In the next section I shall critique Habermas' framework of justification which I argue tends to reduce openness to the future to a rule-following.

1.1.2. Opening to the Future: A Derridean Critique

In my reading developed in the first and second chapters, I shall argue that Habermas' model tends to be monistic, conservative, linguistically reductionist and ontologically inadequate as his theory does not take into consideration the constitution of the people by the law of the past and their opening to the future. His theory has been challenged for its uncritical commitment to liberal notions, such as a unitary common will and consensus; its conformism to existing political structures, limitation to the present democracy and its misleading preoccupation with justification and authority (Morris, 2001; Shabani, 2003). Similar criticism has also often portrayed him as a "safe democratic reformist" (Matustik, 2001, 281). His Ideal Speech Situation, too, is criticised; "As always, Habermas' account 'screens out the psychodynamics of the situation'" (Whitebook, 1995, 194) of speech. And his idea of a political community as monist (Fraser, 1996, 122) is evidenced by the degree of homogeneity in the lifeworld that sustains an ethical relatedness of solidarity.

In my thesis I agree with Habermas that the law remains an idea regulative of the future—not a justified norm grounded in factuality, but a precarious, self-referential speech-act. I will therefore object to what I read as Habermas' reduction of the political to agreement-oriented speech-acts, and the situation of discourse to *the present*. Disagreement with the law, disruption of the norm, ethical civil disobedience, and conscientious objection

have always been a part and parcel of the political situation and should be so. The acts of dissent in fact coincide with the procedure of universalization. As I will argue, they articulate what is not recognized at the present and refer to a *future* where the unrecognized will have been addressed and included. In chapter six, I will argue that demand for recognition in general refers to a future constitution of the society where the excluded will have been included as an equal part of the community. To be fair, Habermas agrees with a version of dissent that demands recognition; if disagreement with an unjust norm is in line with constitutional principles, it is "tolerated" as a part of the rational correctability of norms.

However, I will raise some questions regarding the insurmountable discursive gap between justification as rational acceptability and *other* forms of taking part in legislation broadly conceived as the living way in which we suffer, contest, refuse, re-instate, change, make and unmake the rule. When the norm is suffered as a wrong, we do not seek justification or others' consent: Rosa Parks simply acted as if the norm was otherwise, and unmade the law in her disagreement without justification. In the third chapter I will argue that the law is ultimately unjustifiable, and the speech-act constituting it is and ought to remain open to further, subversive performativity of the people that may have to disagree with the norm. My main example will be taken from the American Civil Rights Movement where Rosa Parks changed what it means to be a part of All, by bringing an "ought" in stark opposition to the "must" of her present situation - one that did not find her spontaneous self-legislation rationally acceptable. From the view point of our present, one can argue that her refusal to move from her seat went a long way to universalize the rule, making Afro-American citizens a visible part of the future political world disclosed by her act. Rosa Parks didn't say anything that can be understood as a speech act in the traditional sense of the term. However, the speech act was formulated by a simple 'NO!': although she didn't elaborate, it meant "No, I am an equal member of the society!" But she did so by remaining silent. In the

terms I develop here, however, this gesture cannot be adequately captured by a Habermasian frame. For Rosa Parkes *forcefully* made what was not present in the situation of discourse (i.e., Afro-American people) a recognized part of politics of all; she expanded and re-constituted the people by the futurity of her act. Accordingly I will argue that the people are not the ground but the *force of the law*. She in fact seems to have acted *as if* she had always already been the law-giver; her act did not so much follow the rule as *spoke louder than words*.¹⁴

I shall argue that staging belonging, to say or act like ‘we are the people,’ – representing one as one of the people – is *the most basic and queer*¹⁵ *political speech-act* that eschews all demands for validity, agreement and normativity. It predicates authority on authorship without a specific author, and although it is subjectless, it subjectifies by making possible being-otherwise. Hence I argue that it is *an act of speech* to be heard and responded to as one of the people that one will have been legally, culturally, and ethically. The authors I shall turn to interpret acts of speech in different terms. More will be said the coming chapters: Lyotard takes them to be phrases of the *differend* that respond to the past. Rancière conceives similar acts of disagreement as a contestation over what it means to speak, be rational, and be a part of the political world where one formerly did not count as one. And for Butler these acts of speech occasion a re-articulation of the social bond toward equality, destabilization of identities, and a change in the power structure of the “we” no longer unitary and “closed.”

Another intention in the following thesis is to supplement the speech-act theory developed by Austin, Searle, Habermas and Derrida with a study of *acts of speech* in a political context. My thesis owes a great deal of its substance to an encounter among Derrida,

¹⁴ What she said is irrelevant because it was a simple ‘No!’. I assume the meaning of her act of speech was the silent action of refusal. Silence here is an act of speech because it is meaningful.

¹⁵ There will be much on “Queer” theory below. Queer theory is a field of interpretation emerged in the late 1980s, challenging the idea that gender is an integral part of the essential self. The socio-politically constructed nature of gender and sexual acts and identities form the basic claim of the theory. In my thesis, queer also implies that the meaning of an act or identity is socio-politically constructed, always partial, and conflictual.

Habermas, Foucault and Spivak, although of these great thinkers only Habermas will be critiqued here. Acts of speech and the temporality of the political are two subject-matters pivotal to my investigation. To contrast my framework with that of Habermas, Derrida provides my thesis with the understanding that all structures, contexts, and institutions (contexts of speech-acts, democratic institutions, and the fabric of our lives) are characterized by a “non-closure” (Derrida, 2001, 13) of, to name a few, speech, action, identity, meaning, space and time. The openness of all formal edifices, which remain out of joint and incomplete, can of course be seen as a weakness, an inability to totalize and insulate the structure against what it aims to keep out—wager, risk, contamination, impurity, uncertainty, conflict, violence and the like. However unattainable stability and closure also indicate a chance to better those structures, responsibility to avoid their total destruction, and an ethical opening to an otherwise future (*Ibid.*) where what/whom is foreclosed can be let in peacefully and transformed. I argue that Rosa Parks made use of a similar opening of the formal structure of the law to what is to come at the moment of dissent; she forcefully entered the legal sphere and started a venerable civil rights movement.¹⁶ If this is the weakness of the gesture that structures and gains affinity to what it aims to foreclose, this can also be conceived as a strength of the structure that ought to remain open to what is to come. I argue that the gap between justifiability and justice, between the political and the ethical, and between the structure and the totalizing movement is *futural*.

As for the rule, Derrida identifies it as an aporia; it all harks back to the undecidable force underlying and heterogenizing it, constantly wavering between might and right, justification and violence (i.e., the unjustified): “Violence is not exterior to the order of the law. It threatens law within law” (Derrida, 2002, 268) when it is enforced. Unjustifiability forms the context of the constitutive speech-act that legislation is. Within the context of

¹⁶ Of course there were other women who refused to give their seats before and after Parks: Rosa Parks’ action was not singular, or historically unintelligible on the basis of institutional context of the Civil Rights Movement. It was rather that the meaning of her action was contested.

speech-acts, the rule that makes a speech-act successful in Austin's terms cannot be successfully identified independent from the context (i.e., "situation") in which it is performed because all speech-acts are subject to a re-iteration that calls into question *the enforced closure* of the rule's interpretation (Derrida, 1982, 310). The situation of the speech-act is not limited to what/whom is present, present acts and words but also *has a history that leaves a trace on the present*: that history which constitutes the *authorizing force* behind the speech-act can be possibly cited, quoted, re-interpreted, which means it *also has a possible future* that, although unexpected by its past, communicates this force. "To communicate, in the case of the performative," he concludes "... would be to communicate a force by the impetus of a mark" (*Ibid.*, 321) that turns a possibility into an event.

In the reading I develop here, to re-iterate a speech-act, or to re-communicate its force is to re-present the present situation as a spatio-temporality both open to *the past and the future* of the context. In other words, as Spivak elaborates, "[d]istinguishing clearly between *possibility* [that performatives can be cited] and *eventuality* [that such possible events—citations, 'unhappiness'—do indeed happen], Derrida suggests that the protection and definition of a standard or norm which is obligatory to all ethico-political institutions is carried out by Austin's creation of a 'theoretical fiction'—the logically prior norm or standard—that excludes this eventuality in order to purify his analysis."¹⁷ When the context is theoretically (and one might add, violently) "closed," force is endured as a deadly rule that denies its own past and future, remaining recalcitrant to re-presentation and change. But paradoxically a force enforceable but not in force has no force, cannot be justified but by its self-authorization: if it cannot have a past, neither can it have a future, and the speech-act does *not* happen (it becomes neither possible nor an event). If it does have a past (a beginning unexplained by its force) which remains outside the situation of the present speech-act, it

¹⁷ Spivak Gayatri, "Revolutions That As Yet Have No Model," 78, in *The Spivak Reader*, ed. Lendry & Maclean, Routledge, New York, 1996.

means the context is not closed. It is for this reason that “Austin had to free the analysis of the performative from the authority of the value of truth, from the opposition true/false, at least in its classical form, occasionally substituting for it the value of force, of difference of force (illocutionary or perlocutionary force)” (Derrida, 1982, 322).

My thesis thus revolves around *force* in its aporetic character, in terms I have borrowed from Derrida’s discussion of the norm in *Mystical Foundation of Authority* (2002) but I do not aim to solve or presume away the relevant aporias of temporality intrinsic to the norm that opens it to re-interpretation. I argue that it is precisely because the ‘beginning’ (i.e., making of a principle) is not accountable by the principle that we can keep re-iterating it in and through language, but not necessarily always in speech. Rosa Parks’ subordination is not performed in speech: it was the meaning of her action that disrupted the politics of her time. In the next section I will turn to Spivak’s reading of widow self-immolations that *silently* perform the aporia of autonomy.

1.1.3. Rule and History: Speech and Silence

Another resource my thesis draws on, Spivak’s *Can the Subaltern Speak?* (1988), tackles the question of how re-iteration can be performed in and outside speech and so must be conceived as representation in its double sense (of signifying *and* of speaking for). Indeed, if as Derrida suggests, “[r]epresentation regularly supplements presence,” (Derrida, 1982, 313), and is predicated on force, Spivak asks whether this centrifugal force also creates and is expressed by a silenced centre that by virtue of *historical* power relations lies on the periphery, if not totally ‘absent’ in the situation. She raises the question of whether the production of history and representative structures, i.e., the presumed “origin” of the present situation, has left the subaltern a chance to tap on this force/power. She suggests that the history of the oppressed is concealed by intellectual attempts to represent the subaltern in their “truth,” as well as an abstention to representation on the grounds that no signification or

principle can do their silence justice (1988, 285). If they are not *seen or heard* as present in the situation, if their voice does not have the 'force,' if they cannot represent themselves as a part of the situation, can the subaltern speak? Can they be signified, spoken for, and represented within the history of All without denying them the autonomy to do so?

Spivak argues that their history, *and* the history of the structure that oppresses them, can be approached from the itinerary of what cannot be said, measuring silences, making visible what has hitherto had no relevance to the discipline of history, with a change of level in the "study" of the subaltern. Historicizing their absence in the totalizing structure allows us to "encounter" them; and "[t]o confront them is not to represent (*vertreten*) them but to learn to represent (*darstellen*) ourselves" (288-89). This encounter as I argue in my thesis is the situation of discourse; but what is confronted is their invisibility and what is heard is their silence. In making visible the aporias of autonomy, force, and speech within the context of widow-sacrifice in India, Spivak represents the subaltern, coloured, Indian women representing themselves through what I shall name *acts of speech* (297-298).

The self-immolation of widows as Spivak interprets it is a signifying event of what Lyotard terms the *differend*;¹⁸ as an action, it *says something* and is in the order of "*sruti* (what is heard)" but it is not decidable whether it is heard as discourse (299). Acts of speech are aporetic because they rely on silence. Widow-sacrifice for Spivak performs the aporia of autonomy.¹⁹ For the male subject, the felicity conditions of the act of speech are paradoxical: "it is the felicity of the suicide, a felicity that will annul rather than establish its status as such, that is noted" (300), whereas for the female performer of the act it "brings praise for the act of choice on another register" (*Ibid.*); she becomes autonomous in rejection of autonomy. For the colonial white it was a grotesque crime against humanity, which, when not performed,

¹⁸ The *differend* implies "the inaccessibility of, or untranslatability from, one mode of discourse in a dispute to another" (300) as Spivak defines it. Spivak's discourse cannot be taken as a plea for suicide, or celebration of violence but as a representation of the subaltern women subjectified by demands on and interpretation of the rite.

¹⁹ Autonomy is aporetic because the self is (outside) the law it gives itself.

signified “real choice.” But choice here, implying *autonomy*, rule of the self, is paradoxically enmeshed in nonchoice, a lack of choice as it annuls itself, or rather *finds its expression in others’ choices*. And what is (not) said is (not) heard precisely through this undecidable character of the act of speech that says something the mute women can(not) say and others can(not) hear when it meets its felicity conditions, i.e., becomes “successful.” The paradoxical representation of self-rule in self-immolation was outlawed in 1829. “When the law was finally written, the history of the long period of collaboration [of autonomy and heteronomy] was effaced” (301). However, because the widow identifies with her husband in the act of self-immolation and *gives her autonomy, choice, body and life* over to him, her status as the object of a man remains enforced even when she chooses not to sacrifice herself (*Ibid.*). In my reading, the widow’s act of speech brings together autonomy and heteronomy in a signifying event. As opposed to the Habermasian understanding of autonomy, it is (un)making the rule in the self-rule, and revealing the self as heteronym. One becomes submissively autonomous and an other to oneself.

I borrow from Spivak both the idea of the dual operations of representation and that of the aporetic character of acts of speech. One of the key ideas informing my thesis is that acts of speech cannot be reduced to the mirror image of speech-acts just because their locutionary force is analysable in the same terms as speech-acts; rather, an act of speech signifies *the emergence* of a speech-act, its excessive character, and its first instance and institutionalization.²⁰ Remaining in one’s seat when asked to give it to a white person is a signifying act. Habermas discusses signifying acts under the category of “nonlinguistic actions” (1998a, 59) which are incomprehensible unless their propositional and normative content had *already* been made known to others; thus their institutionalized past *matters*. In

²⁰ Rosa Parks’ civil disobedience instances an act of speech through its singular emergence: it was institutionalized only after the Civil Rights Movement succeeded, but at the moment it was performed for the first time, it exceeded the political-legal framework of her time. The act itself was singular: otherwise there were other black women who refused to give their seats.

Rosa Park's case, her act would be unintelligible without the Civil Rights Movement's past. Yet if signalling a taxi has its widely-known conventions, silence, on the other hand, does not. Its meaning is undecidable. Although Habermas prioritizes the verifiable and verbal content of signification, I argue that the locutionary force/effect of an act of speech takes priority in an address.²¹ For him, "[i]n short, propositionally differentiated speech leaves the actor more degrees of freedom in relation to a recognized normative background than does a non-linguistic interaction" (*Ibid.*) but I argue that the main act of speech of the political is both constitutive of the norms and representative of the situation where freedom/sovereignty are enmeshed in unfreedom/submission.

If, as Spivak argues, the subaltern is silenced by the asymmetrical power structure of the situation, then we need a model of ethical representation—*not* representation by the rational discourse of universal language that conceals inequalities, violence and aporias, but, as Butler puts it, "that vocalization of agony that is not yet language or no longer language" (Butler, 2004b, 139). Butler's later concerns about "addressing" in an ethical response what is *not* addressable in scientific, legal or universalized language, put under critical scrutiny "the domain of representation where humanization and dehumanization occur ceaselessly" (*Ibid.*, 140). She engages with the (mis-)representation of what is paradigmatically human, viz., the face in Levinas and concludes that "the human is indirectly affirmed in that very disjunction that makes representation impossible, and this disjunction is conveyed in the impossible representation" (*Ibid.*, 144). Likewise, the face of the subaltern is not erased by any representational practice but remains to witness the failure and to present this (im)possibility of representation.

²¹ He suggests that "[t]he non-verbal utterance itself cannot bring the propositional content of the presupposed norm to expression because it cannot take on representational functions" (1998a, 59)²¹ but he seems to overlook the bodily performativity, the fact that one's presence, action, gesture and performance of oneself as the subject of the act can always take on a representational function even in silence.

That some signification is at work in both speech-acts and acts of speech, and that what is signified can be expressed in propositions, should be granted as truisms. However, an act of speech, I shall argue, can be performed without propositions and represents a silent presence nevertheless *acting*, addressing us to the situation and reasons of its/his/her silence. Merleau-Ponty conceives silence as the window surrounding discourse that discloses meaning (1973, 45-46), but in order to express meaning, we need to give up the silence that reveals it to us. Silence as a topological metaphor appears as a boundary, a law that can turn into the sayable only by suspending its (im)possibility conditions—that is, by expressing the socio-political *significance* of the act in discourse and registering the normative shift in meaning. In other words, the subject of Rosa Parks' act is re-signified when its success conditions were satisfied (when Afro-American citizens were treated equally). Silence can also shed some light on the way the sayable and why one feels *forced* to remain silent, or why certain subjects cannot take part in public discourse—and later in this vein I shall turn to Rancière's characterization of democracy as "a way of keeping the people present in their absence" (1995, 93). We may also investigate how certain acts aim to voice in silence what cannot be said due to socio-political limitations on the sayable, as Butler has argued (Butler, 2004, xvii). The sayable is organized in the political space as a limitation that works from within (as an inner split within the public discourse, as a foreclosure of certain words, propositions, speeches and act). The idea of the 'sayable' also thematizes how discourse creates myths, fantasies that sustain themselves by limits, prohibitions, and reassurances. I treat silence here as an expression of the anxiety of facing radical difference, the aporetic moment of our attempts to representation of that which thwarts representation. The distinctive character of acts of speech in juxtaposition with speech-acts, however, will be an ongoing theme of the following thesis when considered within the implications of the broader issues of (un)justifiability (i.e., violence/non-violence), sensibility (rationality/irrationality,

understanding, perception, seeing, hearing) and “situation” (of discourse, of limits, of democracies, of the socio-ethico-political world).

Acts of speech seem unique in that *they (un)make the rules they do (not) follow*. If speech-acts’ success depends upon some codifiable “conventions” as Austin suggests, acts of speech are *unconventional*; they rather *disagree* with the rule they universalize without endorsing, or suggesting another one. If Rosa Parks could be seen as having disagreed with the (defective) norm of equality of her present, she certainly did so by vindicating the (universalized) norm of equality of our present. She in fact disclosed the norm to be in the wrong although from the view point of her present’s conventions, she was wrong. Acts of speech are thus disclosing; Rosa Parks’ act disclosed an emergent subject following an emergent rule of an emergent political world; it was then disclosed to be enmeshed in a wrong which was then disclosed silently by an act that continues to disclose its meaning in time. Rosa Parks’ act subjectified her as a part of the political world of which she formerly had not counted as a part formally. Acts of speech are aporetic: they are (not) rule-governed.

Acts of speech are also poetic: they engage in *poesis*, creation, making (of a subject, of a people, of a rule, of a world). Those who perform the act also perform themselves as subjects of the political, as an unforeseen part of a collectivity, a “we” that comes into being when Rosa Parks, say, sang the famous hymn “We shall overcome.” If there was an ‘us’ articulated and embodied by those engaging the rule of racial segregation at Rosa Parks’ time, it seemed like a literary self-creation, revealing itself only in and through the utterance of the act of speech when people acted and spoke in order to become the ‘we’ in the song. Although all acts of speech are also speech-acts that they will have been if successful (not vice versa), they are originary without an origin, precarious, risky, creative, and undecidably different to speech-acts (which presume the rule that precedes them). The ‘us’ in “We shall

overcome” is predicated on the overcoming, which would have always already articulated the people that *possibly* will have overcome.

Thus there is a history and a future to the norm, the people, and their representations. The solidaristic²² understanding of politics seems to take ‘the people’ -which is a subversive act of speech - to be an ossified, *ahistorical representation* without inner ruptures. Agonistic democracy theories, such as Lyotard’s, Rancière’s, or Butler’s as we shall see in the following chapters, capture the futural performativity of the act of speech but do not offer a clue how to reconcile it with the ‘timeless’ representation, or place it as a part of the democratic representative structure. In the next section I will explore what Habermas has to offer as the representation of the ‘we.’ The ‘we’ in his thought is the sovereign people making the rule by following the rule in *ahistorical terms*. Habermas does not take into consideration the *emergence of the speech-act* - “We are the people!” - and the people’s act for him has no reference to the future either.

1.2. *The Archive: We are the Sovereign*

For Habermas democracy revolves around rational agreement, solidarity and good argument. The ‘we’ for Habermas is a Generalized Other that speaks the voice of the law, a subjectless address that coordinates action (1987b, 37-40). The ‘we’ is underpinned by a set of culturally shared practices, semantic or actual relations, and recognized identities in a democratic society; it is institutionalized by these practices and relations of autonomy as ‘the sovereign people’ which is a normatively limited representation of the ‘self’ of the self-rule (i.e., sovereignty). Democratic governmental authority, he asserts, “proceeds from the communicative power generated by the citizens’ practice of self-legislation” (2002a, 152). Taking the best out of the two theories and combining them in his account of legitimacy,

²² By ‘solidaristic,’ I mean agreement-oriented theories that emphasize procedural justice and legislation, dialogue, and understanding.

Habermas concurs with the republican view that democracy is justified by the discursive process of self-government, though, as in the liberal view, with formal restrictions operative on it (152-154). Sovereignty for Habermas is the discursive practice of autonomy within institutional limits. However, he distances his account from both paradigms of sovereignty, carefully placing it as a conjunction of them in the field of communicative actions theory. To summarize Habermas' argument that democracy and the rule of law mutually imply one another, one could say that self-rule is equated with the rule of law in the practices and relations of sovereignty (Habermas, 2002a, 152). In the next section I will argue that collective self-rule is exercised when the people transcend their private selves and act *as if* they form a Generalized Other, that is, the rule of law. Tracing his framing of the notion of 'sovereignty' will allow me to propose that the sovereignty of the people is reduced by him to agreement with the present law. In other words, he suggests that the people follow the rule that constitute them, without offering any theoretical resources for the discontinuous and futural transformation of the norm or the people. For him 'the people' is a futureless and pastless representation.

1.2.1. Archive: the sovereign 'we' and its norms

My thesis takes as central the criticism advanced by Honig that Habermas casts the paradox of politics mistakenly as a process of authorization/justification by agreement (i.e., sovereignty), ignoring the paradox of normativity: *the people is not only a constitutive but also a constituted power*. Also the people historically emerged, acted and became socio-politically present before speech legitimized the emergence by a representation within democracies. The people were the ground of the very law they violated to ground it and located their authority in an emergent political world they authored to constitute themselves.

In my thesis I shall investigate the temporal interplay between the people and norms to argue that 'the people' has always been defined by what-is-to-come and still are, which implies, ontologically, people are not the ground, but the *temporal force of the law* that may help live through the aporias I shall outline in the next chapter. Theories that start with the unexplained concept of the sovereign people as the ground of democracies overlook the aporias of temporality and power inherent in them, reducing the people to an archive of identities and justificatory relations between people who embody these identities. Habermas proposes to divorce the political application of speech from its ontological underbelly, viz., the philosophy of the subject, and locate the legitimate ground of autonomy in ideal communication: "If the idea of popular sovereignty is to find realistic application ... it must be severed from a concrete interpretation of a body of present, participating, and mutually consenting members of a collective" and reconstructed as a "subjectless ... forms of communication" (1990, 43). However I argue that, he fails to make theoretical distinctions amongst the self (the 'we'), the subject ('the people') and the collective identity ('the nation'); because these notions pertain to the lifeworld that is for him strictly isolated from the public sphere, public discourse does not represent either.²³ However, as I argue, the demarcation line between the two spheres is contestable and undecidable, and all categories of representation seep back into the public discourse.²⁴

Although later Habermas revised almost all assumptions regarding the public sphere as the power-free space of debate, argumentation and opinion open to all, a cultural way of

²³ Although 'the people' legislates publicly and asks for justification by public norms, 'the people' is born outside the public structures of discursive politics, historically in an unidentifiable mob that set the norms of the political. The historical conditions under which "We are the people" is uttered destabilizes the liberal democratic distinction between the political and the non-political: the discursive creation of the French Revolution was the unruly speech-act that 'the people' still is. And it was invented by a mob that eschewed the limits to the political, in a sphere quite different to the Habermasian public; dissent, resistance, barricaded streets, trenches, the whole city.

²⁴ Benhabib, re-interpreting the Habermasian public sphere, maintains that "there may be as many publics as there are controversial general debates about the validity of norms" of publicity (1996, 87), since distinctions between the public and the private remain contestable. If one should disabuse oneself of the idea of an indisputable public, on the other hand, the private, formerly excluded from the rightful terrain of the political, is entrenched back in the public discourse.

living continues to underpin the possibility of agreement in his theory as “every requirement of universalization must remain powerless unless there also arises, from membership in an ideal communication community, a consciousness of irrecoverable solidarity, the certainty of intimate relatedness in a shared life context” (1990c, 48). I will question whether he denies anything that may interfere with the pragmatic representation of speech, the opacity of phantasmic constitution of the people by speech-acts, and aporias of democracies; firstly, how do we represent the present ‘we, the people’ as it were an archived, stable, sovereign subject of speech? What might be the aporias of sovereignty in a lived situation of speech structured by violence, domination, and injustice as opposed to solidarity? The intimate relatedness of the people in my reading has two implications: their situatedness in a shared life where unjustified and unjust relations too is a fact, and secondly, an archive of relations inherited from the past subjectifies us, a way of thinking, acting, speaking normatively allotted to each subject of the political. In the next section I shall introduce a central notion of my thesis, ‘the archive,’ both as a set of regulated relations within the people that makes us what ‘we’ are, and a set of representations that constitutes the recognized identities making up the ‘we.’

Archived relations make us what we are: they constitute subjects. I shall argue that on the collective level subjectification serves to buttress a desire of sovereignty. The subject has been traditionally placed within conditions of action, and although dialogue and rational persuasion demands submission, action requires mastery of the self over others, i.e., what I call “sovereignty.” In my thesis I shall also provide a critique of *sovereignty* which can be understood in several senses; the absolute self-rule of, say, an emperor; the will of the fully rational subject of decisionism; a self-enclosed mechanism/procedure of calculation resistant to changes and reforms; and finally, majority vote as in Rousseau’s general will.²⁵ Arendt, for

²⁵ See my discussion in the second chapter.

instance defines sovereignty in the following terms: "root of the sovereignty is the will: Sovereign is who wills and commands" (1968a, 296). Commanding is traditionally seen as the privilege of the sovereign whose all demands are met. Ability to decide on a course of action by sheer calculation of harms and benefits, too, is generally associated with the sovereignty of the subject. Schmitt in his *Political Theology* places the sovereign aporetically both inside and outside the applicability of the norm, as the one who decides on the suspension of the norm: "Sovereign is he who decides on the exception" (1985, 5). For Habermas the people are the sovereign; and liberal deliberative democracies are grounded in the political authority granted by the people's presence in the law-making process. The rule of law is equated to sovereignty, i.e., self-rule that constitutes the legitimizing ground of norms, though here the sovereign is understood *in and through plurality, not as an atomic individual/mechanism* of calculation, decision, speech, and action.

The theoretical shift from the subject-oriented understanding of sovereignty to a subjectless rational procedure of decision, however, only complicates the question of how the people addressing themselves as the sovereign can submit to themselves if the situation of address involves injustice and violence. I shall argue that Habermas overlooks the fact that the people's presence and self need to be constituted to be agreeable and represented via speech that makes them recognizable by the law. *The law authorizes the people to speak but constitutes and recognizes only those who agree with it for the sake of sovereignty.* A theory of robust democracy taking into account the lived situation of address must be attentive to *the conflictual, agonistic and power-infused* constitution of the people as a differential plurality that is not only split within multiple times, but also changes and re-emerges differently every time it is represented. In other words, disagreement and deferral of sovereignty to a plurality intrinsic to the people in a situation of conflict must be taken into account in democracy theories.

In the Habermasian situation of discourse, the notion of 'sovereignty' is limited to justification of norms and agreement with the law, but in the lived situation of discourse at the present sovereignty is the privilege of the stronger, the dominant, and the violent. The 'sovereign people,' too, is a limited representation of identities recognized at the present; it constitutes a discursive archive of identities one turns to in order to justify a claim; "It is the people's choice" seems like the slogan that authorizes elections, legislation, and public opinion, but who are the people? Likewise the meaning of "the people" seems to favour those who can refer to it in discourse. At the present the *semantics* of the term resides in majority vote, counting, arithmetically stronger, the main-stream identities with power, and those who think, act and speak in ways *traditionally* acceptable in a culture.

1.2.2. Archive: a critique of the privileged past and the embodiment of norms

There is a *tradition* at work here, a semantic and normative past that reasserts itself at the present in the grips of the archive. In the opening passages of *Archive Fever* (1995) Derrida introduces normativity as origination, or commencement of a commandment that will have continued to imprint the present decisions with the trace of a past. In fact language may be speaking for us, but one may as well argue that language speaks for itself through the authority given to it by us, in the past. The ancient Greek word '*arkhē*,' principle and/or beginning, brings two understandings, one temporal, the other nomological, into close proximity to problematize the constitution of our meaningful presence in democratic social order as well as semantic normativity: "the principle according to nature or history, *there* where things commence —physical, historical, or ontological principle—but also the principle according to the law, *there* where Gods and men command, *there* where authority and social order are exercised, *in this place* from which order is given" (*Ibid.*, 1). Therefore to constitute a principle of (democratic) sociability such as consensus means to construct an

archive of shared meaning, an index of reference anyone can defer to in public addresses, a mode of speaking anyone can feel at home within.

However, an archive, Derrida reminds, is an *arkheion*, “initially a house, a domicile, an address, the residence of the superior magistrates, those who commanded” (*Ibid.*, 2). The archives do not belong with the same symbolic space as *agora*, the public space of speech, discussion and deliberation; they are rather exclusive spaces, open *only to those who have the power of interpretation*, command of rhetoric, skills of oration, authority of speech and power to make and interpret laws (*Ibid.*, 2-10). “Entrusted to such *archons* [law-makers], these documents in effect speak the law: they recall the law, or call on and impose the law” (*Ibid.*); they mark down the conditions of speech as lawful address and address of law. Each document in the archive bears the signature of an *archon* that represents a singular instance of political power, not a powerless, anonymously universal petitioner. “They inhabit this uncommon place, this place of election where law and singularity intersect in *privilege*” (*Ibid.*, 3).

The way in which an archive becomes institutionalized attests to the sheltering of meaning, and the semantic/political privilege attached to it. The rules applied to the former trial cases stored within the archive from now on would be reiterated in similar conflicts, establishing a judiciary tradition based on reference and deference to the *arkhēs* codified in positive law. If the present meaning of words derive from a past, their publicity also stems from a private space of the symbolic, the *pri*—before— of the constitution, their origin. The gathering of the signs in the private confines of the archive, through the authority of the first reference, also founds a public space of normativity where speech, discussion, and deliberation from now on would have to be in the orbit of political power that comes with “the control of the archive” (*Ibid.*, 4) that safeguards the familiar “normative implications” of the sayable.

1.2.3. Archive: embodiment of norms

Lyotard further elaborates on how an archive of the sayable is attached to the knowledge of presence that is addressed and named by the *archons* of the present. The guardians of the archive fix the referents of rigid designators of a language to objects they name, and classify (Lyotard, 1988, 37-44). In documenting what is present in reality, they indeed form links between reality and constituent simples of language that represent the presence of objects. In other words, the authority of the semantic archive is potentially justified through the archive of beings that present themselves to language: "it was the given described by the phrase, it became the archive from which are drawn documents or examples that validate the description" (*Ibid.*). But the language underlying the denomination of public goods, universal rights, and commonsensical structure of *Res Publica* issues from *privus*, again privacy in the sense that the presence is separated from its representation; that a word acts as the representative of a thing suggests that words refer even in the absence of the things they signify (Lyotard, *Ibid.*, 42).²⁶ If reiterability implies public meaning, and publicization of the meaning of presence entails its privatization by the letter that becomes independent, public meaning undecidably wavers between presence and absence, the past and the present.

Rancière's project in *The Future of the Image* clarifies the stakes, developing "the whole history of relations between three things: the images of art, the social forms of imagery, and the theoretic procedures of criticism of imagery" (2007, 15). 'Image' in this context is seen as "not simply [an] old representation, but ... the new tension between naked presence and the writing of history on things...the tension between the operations of art and social forms of resemblance and recognition" (*Ibid.*, 19). The image punctuates an association of the visible with the sayable: it "produces the likeliness of an original," (*Ibid.*,

²⁶ Thus legitimation of words formed through reference to the archive fails to deliver *publicus sensicium* – common sense – representative of *publica res* – common beings – that would perform a justification test in the republican gathering.

6). The meaning of the represented (the visible) is interpreted through the vicissitudes of the representative (the sayable), generally in lines with the canonical norms of reading it established throughout a shared history, an agreed-upon archive of meaning (*Ibid.*, 7) and “[i]n the representative order, they [words] serve as its model or norm” (*Ibid.*, 78). In other words, the principles of the sayable stipulate what an image means in a context.

For Rancière the archive and norms are embedded in an aporetic history of types, not stereotypes, but *arche-types*, a rule-governed manner of being, acting and saying assigned to each and every one to make up a community. The history of archetypes is formed by a series of speech-acts that represent others and imagine them as a part of the same public; and by the canons of these speech-acts of making sense of the visible with the sayable assigned to political subjects as proper archetypes of the community. The rule-governed archive of images thus brings together and separates everyone in an imagined, and *imaged* community: An imagined community is basically a theoretical fiction and a representation of discourse. In my thesis I will argue that the archive is *not* the universal representation of the people but a limit to it that forecloses certain identities from becoming a visible part of the society. The archive of norms, likewise, is the “closure” of the law that ought to remain open to dissent, subversive re-interpretations, and future acts of speech. The ‘archive’ is a key thought for my thesis; it is I argue the site where the re-appropriation of the norm in a living way is possible. It both enables, and limits the way we think, feel act, say and be. To conclude, archive is the normative site of privilege, subjectification, speech, and action that precludes openness to the future. As the lived past that resists the future at the present, the archive is the site of a futural conflict between temporalities.

Conclusion: The Archive

To summarise the themes of this introduction, which aims to make the reader familiar with the pivotal notions of my thesis, the archive is the representation of 'the people' which is (outside) the norm. Above I introduced Habermasian framing of the self-rule and representation of the people. I argued his Ideal Speech Situation consists of universality, sovereignty, and the people constituting themselves in making the laws they are subject to. Legislation is a speech-act that subjectifies but being (outside) the norm it follows, it is rather to be conceived as an act of speech, contingent, spontaneous, innovative, performative and universalizing when it takes the form of dissent. When it is taken as the articulation of a constative, as understood by Habermas, however, it reduces the people to an ossified representation, i.e., the "we" as the archive. Sovereignty likewise is simplified as rule-following, and universality as an unjustified assumption that overlooks exclusion, violence, and injustice still informing the lived situation of discourse at the present.

If there is more to the act of legislation than simple rule-following, its excessive character resides in its (un)making the norm it is subject to. Sovereignty becomes aporetic, neither inside nor outside the enforceability of the law. As the force underlying the performativity of the acts of speech, it opens the subject of the act (the people) to the future of what it constitutes with (dis)regard to the law. The people subjectified in the act finds itself in a problematic relation to the representative archive which loses its normative force; the archive is 'exploded' by the democratic forces of dissent and performed otherwise by the people who constitute themselves in a different way by the act. In my thesis I see the gesture of re-constitution as futural. It is exemplified by the American Civil Rights Movement's act of speech, "We are the people." In Habermas' thought, the people are equated with the representative archive of the sovereign 'we': The 'we' is the sovereign people with stable identities, needs, socio-economic preferences and political opinions. As opposed to the view that couples the people with their perfect representation, I assume a temporal gap between the

people and its performative emergence. The “we” in the act addressed a people that had yet to become, when Rosa Parks disavowed the lived norm of racial segregation of her present. It was not present at her time and referred to the future people of America where the Afro-American citizens would have been equal to other races in the lived situation. It, however, succeeded in constituting what it designated in futural terms. “She had, in the felicitous phrase of Martin Luther King, Jr., simply been ‘captured by the zeitgeist-the spirit of the times’” (Chong, 1991, 230).

Seeking an understanding of this (re-)constitutive moment of futurity is the aim of my thesis. The temporality of politics, I argue, conjoins the past (‘have been’) and the future (‘will’) in future anterior combinations of time (what ‘will have been’). Performativity of the act of speech defers the constitution of its subject to a future time where it, depending on the success of the act, will already have established it. Just like Habermas implied, it is the performative emergence of the people at the moment of the ‘as-if’; the subject (the “we” of the future American people living in equal terms) always already acts and speaks *as if* its act is successful and *as if* it already constituted the subject. In a political setting of conflict, of course this is a wager, an act of faith, and sometimes wishful thinking, but its success or failure notwithstanding, the act remains an act of *as-if*.

In the following I shall explore the relations between paradoxes of democracy and temporality. In the first chapter I will focus on the paradoxes of sovereignty (that the people justify the laws that make them a law-making people) in Habermas’ thought and develop a critique that disruptive performativity of a mob enable the people to re-constitute themselves. In the second chapter I will explore Habermas’ account of subjectification in relation to the addresses of the law, the tension between the individual ‘character’ and identification with the ‘we,’ counter-posing against this what I shall call the ‘mob-ility of speech.’ The third chapter will call on Lyotard’s discussion of the law, ethics, the *differend*, and ‘the jews’ in

Nazi Germany as a representation of the (un)representable to demonstrate how politics operates as a constitutive address simultaneously forming the sovereign people and excluding those not seen to be a part of that body. The fourth chapter will focus on the relations between sensibility and democracy, whom is visible as belonging to the 'us,' how it is possible to respond to a demand that does not make sense to us or is not heard as a political demand. In the fifth chapter I turn to Rancière, exploring ideas such as 'partage du sensible,' politics and police, injustice, wrong, dissensus, and the concept of literarity. The sixth chapter will be devoted to the issue of recognition and the speech of the subaltern: I will examine how dissent operates as a futural silent act of speech embodying a 'wish-to-say' and how recognition shows our otherness to ourselves. In the seventh chapter I will engage with Butler's work, subjectification, foreclosure, and Antigone's dissensus and attempt to show how recognition as a futural act reveals the temporality of politics as a battle between the past and the future. In the conclusion chapter I sum up my thoughts with a focus on the 'wish-to-hear' as the conditions of responding to others' demands.

Chapter 1: Politics of the Unsayable: Aporias and Temporality of the Political

In this chapter I explore the aporias of the political and pursue how the people emerge through an emergency of justification, and thus come *before* the law. The gesture of sovereignty in Habermas' thought is characterized by an aporia that I begin this chapter by exploring, one that Honig identifies astutely: the people justify the laws that will have made them a people that make the law. The aporia of normativity defines the temporality of politics as a futural one. I shall argue that the people precede their own representation in a disruptive act of speech that is futural in referring to a people that have yet to come. With this aim, drawing on Honig, I investigate how the people historically always emerge as a mob that has yet to become a people, eschewing all normative limitations. In the second section, I argue that the people have an undecidable character that oscillates between a raucous mob and rule-following archive of identities. Their presence is caught into a temporal movement that brings together the past' the present and the future: I argue that the people is an aporia that demands an 'otherwise' future. In the third section I interpret Kafka's parable *Before the Law*, using it to point out the futurity inherent in the subjectification of the people, and suggest that democratic politics is defined by what is to come.

1.1. The Lawful Mob: The Present and the Future

Let me begin by reviewing some themes touched upon in the introduction. The law is equated by Habermas with popular sovereignty as the people's self-rule maps onto the rule of law; the deliberative process involving public claims made through speech-acts, their legitimization by the agreement of others, and normativity intrinsic to language that orients the participants of the public dialogue toward agreement frames the crisis of legality that engulfs democracies. Language sets up the scene of legitimization and self-representation in which "the collectively binding decisions" (Habermas, 2002b, 163) are made by all those present

and ensures the legitimacy of the outcome of the voting. Language achieves consensus through the “normative implications that lie in the concept of possible understanding with which every speaker (and hearer) is naively familiar” (Habermas, 1973, 17) since language ultimately refers to lifeworld practices that normatively structure grammar. If a public address fails the test, it also fails to performatively disclose this familiar world of the sayable.

This is the democracy of a lawful language, then, as Habermas suggests that language is lawful, embedded in the laws of presence²⁷ (of those in the lifeworld), and presents the ultimate tribunal of law. Contra Habermas, I argue that there are ample reasons to expect the co-originality of the law and the political presence to lead to exclusive politics, conformist practices, and a non-democratic culture. Given that it seems to be language, *and not demos* that does the work of legitimation in the present, Habermas’ framing of the law begs the question of what “normative implications” intrinsic to language constitute our presence before the law in contemporary democracies.

Reading Rousseau’s *Social Contract*, Honig reformulates the paradox as one embedded within the political, since it appears as the self-referring causality of a law made by good people who are already in turn subjectified and educated to be good by the law in the past. The problem of origins and the future of the law is encountered once again against the temporal background:

“In order for a nascent people to appreciate sound political maxims and follow the fundamental rules of statecraft, the effect would have to become the cause; the social spirit, which should be the product of the way in which the country was founded would have to preside over the founding itself; and, before the creation of the laws, men would have to be what they should become by means of the same laws” (Rousseau, in Honig, 2009, 14-15).

‘The people’ can thus be seen as a novel act of speech, a literary invention of people inventing themselves (as) a political subject and category, perhaps dating back to the French Revolution that *changed* what it means to be *before the law*. The people preceded the law that

²⁷ By ‘laws of presence’ I mean the normative framework that both represents and limits the way we think, feel, act, say and be. Our presence before the law is taken as its justifying ground and needs to be represented in discourse normatively.

constituted them *as* the people and their generic and generative speech-act that constitutes democracies was aporetically (non)democratic, lawlessly lawful and (dis)agreement-oriented: it was a disagreement on the part of the future democratic people that the mob would have been constituted as in order to agree on the constitutional principles; it dis-identified them as the subjects of the Sovereign and identified them as the sovereign people; it was unjustified but set down the norms of justification for a shared life; it was lawlessly lawful.

In the next section I shall illustrate normative and temporal paradoxes of the people following Honig's engagement with Rousseau; for her the main issue of the political is not justification but the people who are both a constitutive and a constituted force of the law. For the people to be lawful, a law must have always already constituted them as a people, but they are not the people they will already have been until they constituted the law. The double paradox in my reading indicates why disagreement, undecidability and representation matter to a robust democracy, a point that will be supported in the third section with an example taken from the American Revolution. Jason Frank takes it as a founding moment of what it means for a people to act, speak and represent itself as a people: "constituent moments dwell in a space where there is enacted felicity that nonetheless breaks from the conventions of authorized context—a felicitous infelicity" (Frank, 2010, 8). If this is a speech-act that represents the people that both need and escape the confines of their own representation, it is, I argue, also an act of speech that enacts a paradoxical temporality where re-presentation breaks with the presence and the present. To foresee my conclusion, 'the people' are never coextensive with their present, or representation due to the temporal and normative paradox entailed in their constitution. 'The people' is the enactment of an aporia that calls us to be *otherwise in the future*.

1.1.1. *The Unsayable: The Past, and the Present*

In this section I shall argue that the law cannot precede the people, as only a law made by the people can be democratic, but the people cannot be present before the law represents them as the people either, since a lawless mob is by no account a democratic community. *In other words, their political presence (self-rule) must be deferred until it gives rise to a representation that differs from it (rule of law); yet if their presence always runs ahead of the present, it cannot legitimize the past that has never been.* As the self-rule never quite catches up with the rule of law (rule of others in the past), a thin, aporetic line always separates and joins them—Democracy remains a promise, or maybe a threat. The predicament, however, does not discredit democracy, but supplies a critical perspective from which its (im)possibility can be appreciated better. If the concurrent emergence of the law and the people take place as paradoxical temporalization and materialization of self-difference in language, the only conditions under which their own promise makes them what they already are and will never be, the conditions of undecidability, raise the question of how they, being absent before the law, can re-present a past as their possible future. As they stage their own undecidability, they are split within, and also become the past sign of their own future present. In other words, their presence comes after their representation (as in the future perfect tense), which makes the speech-act at stake performative and self-contradictory.

1.1.2. *Emergency of the Law, Emergence of the Self*

If one genuinely faces the contingency of democracy, one will have to theorize an ongoing political crisis:²⁸ for Habermas the crisis liberal deliberative democracies undergo is one of justification and “[w]e therefore associate with crises the idea of an objective force that

²⁸ As the etymology of the term ‘*krisis*’ reminds us, the turning point in a disease comes with ‘*krinein*,’ criticism, as well as separation.

deprives a subject of some part of his normal sovereignty" (Habermas, 1973b, 1). "Normal sovereignty" here must be understood in terms of one's being subject to the law one makes, but as legislation is a collective speech-act of negotiation that involves submission to others as well as freedom, the law the people will make would already have made them the people that give consent to it. Thus they are tasked with the impossible articulation of their own, spectral political presence with no measuring rod but their own alien, open future where they have to re-present the past in which they emerged from a violent mob. The emergency of justification and law thus finds company in an emergence of the self that brings into life its own aporetic state that may unfold into a precarious democracy (of absent people that will have to interpellate themselves time and again). Or as the first elections in the newly decolonized Arab countries tragically exemplified in the last century, their speech-act may end up abolishing themselves.²⁹

In asking "[w]here would that good law come from absent an already well-formed, virtuous people?," Honig problematizes how "the 'people' are always undecidably present and absent from the scene of democracy" (*Ibid.*, 19) due to the gap between factuality and normativity that casts them at once as a lawless mob, and a self-legislating community. The people rather waver between 'We, the people' that emerges and the archive. The elusive discrepancy flagged down by Rousseau, the one between the justified general will of the people that make the law freely and the mere will of the "the blind multitude" that is to be gently forced by the law to form the lawful people, has to be traversed by the paradox of justification—anticipation of the very thing troubled by its own preconception, and conformation by that which presupposes its own formation by the same act. If the represented is not independent, but partly the product of the rules of representation, then the formative powers of the law involved in the making of the subjects who are in turn obligated to make

²⁹ For instance Algeria is one of the Arab countries that chose not to be a democracy through democratic elections last century.

the law simply direct us to the undecidability of a political presence that “forever seeks and rejects efforts to ground itself in something outside itself” (*Ibid.*, 27). This might be the archive of public meaning unsullied by ‘private’ forces, or the constitution that escapes contestation by that which it constitutes - as I explore here.

Honig argues that an aporetic thinking, which locates the political firmly within the indistinguishability of the people from the mob, or of self-rule from heteronomy, of the public from the private may restore normativity as a set of precarious relations that need to be reproduced on a daily basis (*Ibid.* 30-35). Those relations, multiple, caring, agonistic, and poetic take up new meanings in an *emergent* political world, re-founded, contested, deconstructed, and perhaps re-constructed through the tactful exploitation of the aporias imminent within. The intimacy of the law with the lawless in its past, the poetic nonsense of the futural within the meaningful present, and absence *qua* presence underwrite some of the aporias that identify the emergency as an *internal, daily, and ordinary* part of the socio-political world in which they are adjudicated, dismissed, negotiated, re-examined and/or deferred. The quandaries of the political which we, occupying certain subject-positions, experience, struggle with, and adapt our lives to in multiple ways sustain and maintain the uncertain social bond that holds the society together. They form and deform an incomplete, uncertain totality subject to the non-law of its own fragile contingency that can go astray any moment. If the normativity underlying the socio-political does not follow the unerring guidelines of anything external to its own paradoxical logic, most of the time conflicts, disagreements and emergencies are not only inevitable, but also desirable to explore the ways in which an internally conflicted community uncertain of its bearings can inhabit the paradoxical space of the society democratically.

1.1.3. Future and Futurity

The gap between the presence and absence of the people does not only pose a threat to democracy, but also functions as an omen that opens up the auspicious political space of their future. Habermas emphasizes that the norms of the present are geared towards future consensus, since being together is informed by the conditions under which we *make sense together*. But where do the normative guidelines originate from, if not from an *archive* of socio-political lexicon that precedes the present as the first possibility of reference, a legal archive, the constitution that sets up what it means to be a people? Habermas “rejects the idea that constitutional democracy represents a struggle between past and present,” as Honig elaborates (*Ibid.*, 29), since the “allegedly paradoxical relation between democracy and the rule of law resolves itself in the dimension of historical time, provided one conceives of the constitution as a project that makes a founding act into an ongoing process of constitution-making that continues across generations” (Habermas, 2001c, 768). Honig calls it ‘tapping’; “the present generation ‘tap[s] the system of rights more fully, expands the circle of rights to ever greater inclusion, and thereby brings constitutionalism and democracy into better balance” (Honig, 2009, 31) I argue that the struggle is among the past, the present, and the future.

The unsayable, as I interpret it, relates to the undecidable identity of the subject of subjectless speech. I argue that ‘the people’ is not only caught within a normative imbroglio where the law is only justifiable by the constitution of sovereign people who speak to make the law, as Honig suggests, but it is also a constitutive embarrassment by virtue of being subjectified by the law to speak as such. Instead, ‘the people’ may be conceived of as being oriented towards the norms of speech that they both need and disturb in order to represent themselves as the people that they will have (never) been, re-presenting themselves as the

people that (never) constituted themselves in the past without justification. The temporality implicit in the act of speech, viz., the future anterior, suggests that people have (yet) to be, and democracy has (yet to) come if they experience aporias and open themselves to the future that disregards concerns with present justifications of the present: they will have always already spoken and acted before they have found a rule to justify, and they will have always already experienced aporias before democracies (will) have come. The act of speech breaks down the linearity and order of time, reveals coexistence of multiple temporalities within the present, and has a detour to the past which is re-enacted as a possible future.

I think Habermas would agree that openness of discourse (as a self-learning process of democratic communication) casts in relief the futurity inherent to speech-acts, since his understanding of the sayable seems to resemble the so-far-unsayable. According to his view, politics is self-correcting: validity demands expand the horizon of the sayable as the claim-bearers redeem their utterances with reasons why we should revise our discourse, enrich it with new identifications, objects and subjects of the political.³⁰ Struggles of recognition, too, are framed as a "dispute over the interpretation and satisfaction of claims not yet redeemed" (Habermas, 1993, 128) and a demand to have all identities integrity under the protection of rights. This struggle falls under the category of engaging the constitution which is a "historical project which the citizens pursue" (*Ibid.*) and thus open to contestation. 'Openness' as Habermasians conceive it is hence predicated on a desire to include others into the public realm whose presence would guarantee the legitimacy of democratic decisions. In this sense, it would be only fair to admit that Habermas' theory promises realization of the sayable as it aims to assimilate the unsayable that is of the future.

Yet, if some people may not have the authority to speak because they are not included in the lifeworld to begin with, then the future of democracies hangs on the balance by the

³⁰ He talks about legitimation, i.e. validity of discursive claims, either as a presumption or a rational expectation under democratic regimes (cf. Habermas 1996, 447; 2001b, 115; 2003, 265).

thread of the unsayable; because there can be a lived gap between the people and the archive, some of them may be of no ac/count in a democracy. The latter insight leads us back to our *present* in relation to what is (not) *present* in our public sphere, not to a sanguine assurance of an obscure day to come.³¹ At this point the future appears not as that which is yet to be said, but what remains unsaid as we speak here and now, promising authority and voice to the silenced and absent, and it takes a detour to delineate the self visible and audible in the present public to identify who is not present.³² Although the lifeworld harbours an expectation of its own meaning yet to be articulated, the enigma of emergent deliberative democracies traverses a *horizon*, as Honig rightly points out (2001, 796), a horizon that in my reading opens along the contested lines of what/who 'we' will and should be as the people. The people speak to become what they will have been given the right conditions under which their claim is heard by others, but their subjectification does not need justification and agreement. To count as just, it needs a political world that paradoxically becomes achievable when their speech-act will have satisfied its happiness conditions. It was just that Rosa Parks was treated equally like a white member of her society, but in a racially segregated America her demand to be an equal subject was preposterous. She spoke to be what she would have been, an equal subject before the law and her demand was justified when the Civil Rights movement succeeded.

1.2. *Validity or Mobility of Speech*

Faced with the question of speech-acts' validity, Habermas' model of deliberative argumentation faces another aporia. It relies on an undistorted form of communication presumed to bracket the lifeworld it paradoxically relies on; i.e., our identifications, intimate

³¹ "This happens in the singular event of engagement, and when I speak of democracy to come ... it means that there is an engagement with regard to [present] democracy which consists in recognizing the irreducibility of the promise" (Derrida, 1996, 83).

³² And whatever is absent appears to be present in the salience of its absence.

relations and parochial understandings that Habermas wishes to rid the Ideal Speech Situation of.³³ Yet, a holistic approach to communication may show that our words acquire their argumentative force, if not also propositional validity, mostly by their meanings in the lifeworld where we are subjectified.³⁴ In this section I examine the Habermasian process Honig names 'tapping,' i.e. the dialogue between the excluded who demand equal recognition and others who exchange subject-positions in order to further the project of constitution-making.

1.2.1. Justification, Agreement, Identity: selfless language games

The 'tapping' process for Habermas is a double-tier procedure. The first procedural principle of argumentation in Habermas' theory, the principle of universalization (U₁), operates to secure the content of all affected by deliberation: "[o]nly those action norms can claim to be valid that meet (or could meet) with the approval of all affected in their capacity as participants in a practical discourse." (Habermas, 1990a, 43) As an abstract reconstruction of the actual conditions of dialogue, the principle does not go into the specifics of debate, or ask the participants to suspend their identities; the participants are just to swap the subject-positions, "reciprocally reversing interpretative perspectives under the general communicative presuppositions of the practice of argumentation" (Habermas, 1993, 52). As per the principle U₁, we put ourselves in the shoes of others as a commitment to universal

³³ Habermas aims to jettison a theory of speech as representation where categories of a single subject are employed to re-present what is present and to replace it with an intersubjective model of speech-acts where the sayable, unequivocally grounded on the public conditions of meaning, appears as what is analysable to reasons one may have to take it as justified; viz., not the statement, or the objects it refers to, but what makes a statement valid intersubjectively. In as much as a proposition can be deemed meaningful if and only if it fulfils universal "conditions of validity" (Habermas, 1979, 49), the universal pragmatic contexts of action encompass the rationally sayable. If "[t]o understand a symbolic expression means to know under what conditions its validity claim would have to be accepted," (*Ibid.*, 135, cf. 115) one interprets and understands what is said only if one is familiar with those conditions and grasps and evaluates the reasons a linguistic community have for taking a proposition as valid.

³⁴ In actual life situations of decisions, it seems more plausible that agents of speech "would continue to exhibit all kinds of traits conducive to 'distorted communication'" (Lukes, 1982, 139; cf. Fraser, 1996, 119) since those traits are an integral part of their identifications they tend to hold fast onto. Given that the evaluative norms of meaning are included in the symbolic structure of the lifeworld, it seems fair to conclude that Habermas cannot stabilize his theory of deliberation by validation of meaning in the face of undecidability, i.e. the subjectless words that must nevertheless be uttered by subjects.

solidarity. Again, not all of us may be willing or able to empathize with a stranger with whom we share little, let alone a concrete other whose subject-position we think may be partially responsible for the inequality we suffer in the lifeworld. If one revises this picture with the addition of agonistic remnants of the intersubjective relations (irresolvable conflicts of interest and disagreement) in the lifeworld that re-appear in dialogue, insurmountable differences of socialization may preclude role-swapping, bringing dialogue to an abrupt halt. One can also doubt that the advantaged parties to dialogue would readily consent to a decision that would effectively deprive them of their privileges, and no one else can vote for them.³⁵ At this stage of discourse, it is likely that parties to dialogue retain their identification, along with the possibility of irresolvable conflict, and others may not be included to dialogue for they may not be included in the lifeworld to start with. Habermas' retort is as follows: when the focus of dialogue becomes the irreducible difference, i.e., particular values, beliefs, practices of interlocutors (the self), we can "rely on the 'neutral' fact that each of them participates in some communicative form of life which is structured by linguistically mediated understanding" (Habermas, 1998b, 40) to neutralize the differences of the self by the universal-pragmatic presumptions of speech. The second principle of universalization (U₂) has a different theoretical status; it is not a derivation from concrete situations of dialogue, but a formalized structure of possibility conditions of acting and speaking in a world we all share. When political-ethical discourse exhausts the attempts to bridge the differences between the self and the other, Habermas hopes, we can re-build the shared horizon of solidarity on the basis of a world in which the other is presumably already included, a lifeworld that envelops the sayable.

But how adequate is Habermas' answer? His double-tier reconstruction of discourse has become the target of criticism that challenges his fundamental distinctions between the

³⁵ For Habermas, "every single participant in argumentation remains with his 'yes' and 'no' a court of final appeal: no one can replace him in his role of one who pronounces on criticizable claims to validity" (Habermas, 1990a, 252).

just and the good, between the public and the private, and between U_1 and U_2 . McCarthy maintains that it is impossible to “agree in what is just without some measure of agreement on what is good” (1991, 192) since justice is more often than not a matter of distributing what individuals consider the good in the lifeworld. Likewise, Cohen believes “[d]iscourses do not create values and solidarities *ex nihilo* but draw on already shared commonality and culture, i.e., lifeworld” (1989, 496). Tully too claims that what Habermas considers universal conditions of discourse indeed presumes a decentred subjectivity native to the lifeworld of developed, Western democracies (2002, 101; cf. Heller, 1984, 5-18 and also Outhwaite, 1994, 9-54). A host of thinkers have revealed a set of assumptions in Habermas’ theory that form the faint contours of a self whose practice and language game inform the so-called universal principles of discourse. His theory represents the discursive practice of a self embedded within a certain lifeworld.

Habermas’ reply to such implicit accusations revolves around the common ground of language where basic “[c]oncepts such as truth, rationality, and justification play the *same* role in *every* language community, even if they are interpreted differently and applied in accordance with different criteria” (1993, 105; *emphases original*). He refers to the pragmatic application of those concepts that rules out any conceivable incommensurability amongst the language games of different lifeworlds. Given that the pragmatics of these concepts cuts across the diversity of identities, as the early Habermas (before the 1980s) insisted, the distinction between U_1 and U_2 can be stabilized without leaving the obstinate trace of the self on the conditions of agreement.

Yet, although Habermas wishes to recast the meaning and validity in terms of the pragmatically decidable, he cannot provide a complete account since the identification of the

subject of speech, here 'the people,' seems to escape the algorithm of the Ideal Conditions.³⁶ My aim here is not only to unmask and debunk the utopian elements of validity, and of subjectless speech in an ideal, unrepresentative, identity-free discursive space in Habermas' conceptions of speech and the political. I also seek to point out that the foundational speech-act of the political (the act of speech "We are the people") doesn't need justification; instead it represents the present as fettered by the past; it both identifies (the mob as the people) and dis-identifies (the people as the subjects of the king) the sovereign. The act of speech at stake dis-identifies its subject with the present, identifies it with a future community that will have always already been if the subject is heard and responded to as the law-giver. It stages a contestation over the community, its constitution, its membership criteria, its norms, and its space-time. It exposes and re-articulates the social bond toward a democracy-to-come.

1.2.2. Spontaneity, Disagreement, Identity: futural language games

For reasons briefly outlined above, I propose to theoretically separate the self from the so long vilified subject, and, contra Habermas, to restore to political actors an inevitable identification, though not an immutable, metaphysical identity. That the self of a people—a historical set of identifications—should be identified and laid out as the background of discourse to enable dis-identifications must be understood as a part of revealing the unequal structure of the political symbolic one should disavow and aim to destabilize. With this aim, one first needs to displace adherence to the normative ground embedded within a structure of inequality, violence and history of oppression. Rational agreement in an unjust situation of discourse can only justify the perpetuation of injustices that silence the weak. I argue that if one shares the conviction that the present socio-political conditions are unequal, then progressive politics should target and oppose precisely stabilizing presumptions, such as the

³⁶ Although the next chapter is devoted to the making of the subject of speech in singular, here it suffices to say the question is rather being *subject to speech* (of others), rather than a subjectless speech (where the difference between the self and other is lost in dialogue).

universal-pragmatic conditions that function to obscure the factual limits to the political, as a fantasy of sovereignty that mutes the unsayable of disagreements, radical differences, and groundless claims that cannot be justified, but are politically relevant and perhaps just.

The point is not to vindicate the political virtues of disagreement over and against rational agreement but provide reasons why and how systematic injustices can be addressed and redressed through the politics of a robust democracy that has “yet to be constituted” performatively. In a similar vein, Frank pursues the performativity that is both the making of a representation and bringing into presence that which may have failed, had the American Revolution gone awry. Centred around “the logically prior and more painfully ambiguous question of *who* constitutes authorizing and consenting people in the first place” (Frank, 2010, 2), his take on historically constitutive moments casts into relief how the people both enacts and exceeds their own representation that precedes their becoming the source of the norms they (will) have violated. For Frank, “the people are a political *claim*, an act of political subjectification, not a pre-given, unified, or naturally bounded empirical entity” (2010, 3); it is the speech-act of the mob, in other words, that aims to set down the ground norms of all other claims raised toward a future political world. The speech-act that is the people in fact “effectively change the conditions and contexts through which they are heard and recognized *as claims*” (*Ibid.*, 8: emphasis original), marking the degree to which they will have authority in what will be nominated as the public. The act of speech “We, the People” precedes and enacts what it refers to (that which has yet to be and will have been). The temporal order is not only reversed but also queered: the claim makes sense after the act, referring to a past that has (never) been which was the *possible future*. Although “the people have been at once enacted through representation ... and in excess of any particular representation,” (*Ibid.*, 3), authority is inserted into this *open-ended future* of the people as the “reference to the sovereign people beyond representation, beyond the law, .. [as] the

mystical foundations of authority" (*Ibid.*). And this moment attaches the authority to speak with the precarious figure of the people it may bring into presence.

Futurity suggests that the people are never present with their representations, nor do they fully strip themselves of them; rather, their representations stage the undecidability inherent to their identity. Their presence both requires and escapes their own representation toward a future political world of contestation where absolute sovereignty fails and they stand on the brink of becoming otherwise when addressed by an authority other than the present law. The law is but the felicity conditions of the act of speech that constitutes them as the archive of the recognizable socio-political subjects,³⁷ yet the illocutionary force of an address has little to do with justification because in a conflict of interest, subordination and legal violence persuasive power of speech loses its relevance. In other words, the subject of politics, the people, is not reducible to the norms of speech that enable its performance: it is the force of the law that constitutes them as such. 'The people' is not even a sovereign that controls the terms in which it is performed, but a temporal paradox of speech that cannot be captured by speech.

1.3. Coming before the law: aporias

Kafka's parable *Before the Law* in fact can be read with an emphasis on *the before* as a mode of temporality strangely postponed, as a mode of address from nowhere and by no one and finally as exposure to an undecidability regarding the law. The country man arrives at the gates of the law, asks the gatekeeper for entry, only to be deterred and deferred to an uncertain time. He says all that he can to persuade the gatekeeper but he is told that it is possible for him to be allowed in the future so he agrees. Alternatively, the gatekeeper adds, you may "try it in spite of my prohibition...[b]ut I am powerful." Besides, even if the country man bests the gatekeeper, there seems to be other gates within, and other, stronger guardians

³⁷ See my introduction.

in the hierarchy of the edifice. "The law should always be accessible for everyone," the man thinks but he consents to standing *before* the gate for years, resolutely giving the gatekeeper everything he has, his possessions, his time and attention in the hope that he will soon be let in. However the judgment given even *before* he arrived does not change. Finally, after a lifetime spent *before* the law, he inquires one last time before dying:

"Everyone strives after the law," says the man, "so how is that in these many years no one except me has requested entry?" The gatekeeper sees that the man is already dying and, in order to reach his diminishing sense of hearing, he shouts at him, "Here no one else can gain entry, since this entrance was assigned only to you. I'm going now to close it."

Set against the background of democratic theory, Kafka might be read as narrating how being subject to the law of which one is not the subject may wrong the people with a reference to 'the before.' Kafka's take on subjectification does not invoke voice, guilt, or a governmental mechanism of interpellation: the man from the country, for reasons unknown to the reader, demands access to the edifice of the law apparently constructed before his arrival. The story, however, subtly invokes a past the country man is not responsible for, the secret history of the law. The entrance *had already been* designed for him alone, he *had already been* assigned to this entrance, the gatekeeper *had already been* tasked, and the rules and regulations of access *had already been* laid down.³⁸ As the law's history is never told,³⁹ the reader feels compelled to wonder whether the country man was summoned, merely anticipated, or addressed *as if* he has always already been the one the law addresses; whether the rules of access to the law should not be a part and parcel of what it means for the law, treated *as if* it was the secret behind the door, to be.

³⁸ Derrida's reading of the parable emphasizes the ahistoricity of the law: "To be invested with categorical authority, the law must be without history, genesis, or any possible derivation" (Derrida, 1992, 191).

³⁹ Cf. Derrida, 1992, 194 where he states that the law "appears as something that does not appear as such in the course of history." Derrida's understanding of the law as a secret takes it in "the history of that which never took place" (*Ibid.*).

The man comes before the law *as if* he was the subject of the law, always already identified by the law as the one with the right to and privilege of access, perhaps only to find out that he is not. He is/was in fact one of the people but not authorized to go through; and access, the gatekeeper says, is prohibited. Therefore he has never been the one and he is forced to agree. But the identification/subjectification takes on a paradoxical character when the gatekeeper at last announces that he, without doubt, has always been the one.⁴⁰ The speech-act that the reader suspects to have been uttered before the country man's appearance before the law but is not said explicitly in the story should be: "Thou shall have been the one if you act *as if* you were." The grammar here brings together future anterior with an (im)possible conditional from an unannounced past: the man will have been what he is/was (not) if he acts like what he is/was (not). His present status before the law, always already announced by the address from the past, is equated with his future status, on an ambiguous condition of the present that has yet to come.

Kafka only lets his readers dwell on this aporia, I argue, to imply that the present that has yet to come is sustained by re-enactments of a past that has (never) been to reach a future that *will have been* our past. The temporal circularity that defers the future back to a past that has yet to happen in our present is democratic and futural. According to our democratic intuitions, the country man, seemingly powerless before the powerful guardian of the law ought to have access to the law whose sovereignty rests in the people he symbolizes in the parable. The reader of the story is again asked to wonder why he has yet to come, acting on an identity he has never/always been in the past. Likewise, although the force of the 'will-have-been' may be taken to have brought the people before the door where the anticipated course of history gets dangerously close to the 'have-never-been,' there, in a

⁴⁰ "There is a singularity," notes Derrida, "about relationship to the law, a law of singularity which must come into contact with the general or universal essence of the law without ever being able to do so" (Derrida, 1992, 187). In his reading the paradox lies in the deferral of the encounter between the singular and the universal, i.e., undecidability.

past that has yet to become the future, it remains in effect, as a force moving them towards the law.

If actually this is *a* secret exposed as *the* secret in Kafka's story, while reading it one may anticipate the country man's failure which will, time and again, constitute his success to identify with what/who he, paradoxically, has never been but will always become.⁴¹

Whatever secret is kept behind the door as the ground of the law has yet to be seen, heard, known or understood, true enough. The man in Kafka's story cannot even take a peek through the door. But perhaps the movement in time, spaces, between identities and towards a law of a democracy to come is the secret of the law. Once founded, the narrative of democracy tells us we will always already have been what we have (never) been—the subjects of the law that we are subject to as the sovereign people. Either way, we respond to the insensible secret behind the door sensibly. We come to be (to have a presence in and around the normative domain) and we become, in time, what we are (not). This I am suggesting, is perhaps taking place through the postponement of the exposure of a secret that, nevertheless, always exposes itself as a secret - that is, by disseminating itself *as the secret*.

1.3.1. Becoming a mob or the people

What Kafka's parable says about the movement of the people is that the people come before the law to become what they are (not) —the sovereign —, but their self-constitution coincide with legislation. The law can(not) be broken because the force behind the law is the people; they are (outside) the law they (un)make. Hence the aporia of the people who constituted themselves, in the historical situation, as a mob that takes up on a novel character when they succeeded in making a constitution without the guidance or protection of a constitution.

⁴¹ The democratic situation is not to be characterized by a disjunction: it is either the case that there is no secret of sovereignty, or it is the secret of sovereignty that there is no sovereignty. I argue that this reductive disjunction reduces *sovereignty* to a property that the people always have regardless of their actions.

Similarly, in an unjust situation narrated in Kafka's parable what we need is the *disagreement of the weaker leading to the stronger's agreement on a change*.⁴² The story does not tell what the change will be about, or how precisely it can be brought about, but it tells us that the secret will *be* when the people *come in*, having heard and responded to as the law-giver that they will have been. In fact the country man speaks loud and clear and is *heard* but not as one of the people who have the authority to make a norm. He ought to be; we all ought to be but historically we are not there yet.

The central paradox I aim to address here in the democratic situation depicted by my reading of the parable is that while subjects may speak to authorize the norms, speech constitutes subjects authorized to make norms, and norms subjectify people authorized to speak. In a similar vein, while people seek recognition in order to have the authority to speak, recognition demands adherence to the norms, and norms tend to authorize only what they can recognize (i.e., the country man subject to the law but not the sovereign *subject of the law*).⁴³ We *mostly* speak the speakable, hear the audible, and recognize the recognizable as we all have a wish to conform and live as a part of the wider society. The latter argument should not be taken as a tautology, but as an invitation to put into question the agreement-oriented public speech that may fail to criticise the present limits to its own constitution. In the second and third chapters I shall argue that it disregards what may so adamantly foreclose change—fantasies of sovereignty (i.e., mastery) reduced to autonomy at the present. I shall further seek to argue that Habermas' lack of interest in the paradoxes of autonomy, rationality, speech and law forecloses effective political resources for a radical transformation of a society.

⁴² My point also follows from Rawls' definition of the goal of social justice as making the least advantaged group better off (1971, 205).

⁴³ The democratic appropriation of the universal norms by individual lives in the public sphere, Habermas argues, is characterized by a norms of justification—being responsible for the life one leads—in a violent-free relation of equality, reciprocity and unbridled freedom whereby the individual subjects, reflecting together on the norms they have been given over to from the start, can become the collective subjects of the law they inherited from the past. To accomplish this, they “must consider themselves mutually accountable, hence they must presuppose that they can orient their action according to validity claims” by giving reasons for actions and discursively thematizing a pre-theoretical world given to us immediately in its direct, pragmatic sensibility (Habermas, 1996, 20; 1987, 119-52).

My intention in this thesis is to bring into light a constant tension between the past and the future of the people as 'the people.' Given that the discursive democracy of a Habermasian public sphere cannot get off the ground unless it is already out there, functioning in a regulative manner that secures authority to speak in the basic sense,⁴⁴ agreement would only serve to ratify the norms of the past. Habermas takes the parties to the dialogue to be actual individuals living in actual democracies highly permeated by structural inequalities.⁴⁵ If the systematic inequalities also deny the disadvantaged access to the law and participation in legislation, Habermas' transcendental moment of an all-inclusive public discourse would be postponed to the ever-withdrawing historical horizon of *democracies-to-come*. In the meantime in order to widen the scope of participation into the discourse, norm-making would take on the form of disruption of the limitations on the public sphere⁴⁶—that is, dis-identification with the 'we' and destabilization of the regulating norms of public sphere.

When Habermas places the socio-political possibility of conditions of agreement as a liberal restraint on speech to ground and authorize the conditions of the sayable, his theory runs counter to his goal of including the other, as a theory of the lifeworld cannot justify its own terms absolutely without self-reference.⁴⁷ The conditions of agreement as justification seem embedded in a *silent* and *secret* history of a particular self, the identification of a people that escapes the gatekeeper's pragmatic reduction, calculation and decision. The past of democracies can be found in Rousseau's *Social Contract* where he defines the society as "a sum of forces" (2008, 6) that comes into being when individuals seeking to further their

⁴⁴ Even the sympathetic reading of Chambers allows the same conclusion: "It would indeed be difficult to imagine a genuine and legitimating deliberation about free speech, under conditions that severely limited free speech, especially conditions that silenced advocates of liberalizing free speech" (Chambers, 2002, 182). The point about free speech can be generalized to claim that under conditions that severely limited autonomy, Habermasian deliberation cannot function.

⁴⁵ Habermas emphasizes this point, comparing his framework to that of Rawls (Habermas, 2003, 10).

⁴⁶ It means the procedure is a different kind of universalization than the one he theorizes.

⁴⁷ "If words and concepts receive meaning only in sequences of differences, one can justify one's language ... only within a topic [an orientation in space] and an historical strategy. The justification can never be absolute and definitive" (Derrida, 1991, 41).

interest coordinate actions through aggregation of opinions and wills. "Each of us puts his will, his goods, his force, and his person in common," he notes, "under the direction of the general will, and in a body we all receive each member as an inalienable part of the whole" (*Ibid.*). "Will" in Rousseau's political vocabulary denotes interest, desire, demand, opinion, and a sovereign force behind action. "Privacy" of the will refers to the individuality of each of us, "tending to his personal advantage" (*Ibid.*, 26) whereas its 'generality' implies that the will at stake is to the benefit of all, submitting every one of us to the sovereign will of the people that sets us free in subjection to the law we make. Although sovereignty is the exercise of the general will, "the general will is found by counting votes" (90) as in aggregation of wills. The aggregative theories of democracy that follows Rousseau's example take as central to a shared life the general will that is practiced as majority vote.

1.3.2. *Democracy-to-come: a queer claim*

Counting, decision, sovereignty (i.e., *secret* mastery of the self over the other) constitute the limit to the present representative democracies where the country man arrives, unexpectedly, at the gate of the law only to find out he does *not* count; he is not *recognized* as a citizen who has access to the law. "Democracy counts," Derrida notes, "it counts votes and subjects, but it does not count, should not count, ordinary singularities: there is no *numerous clausus* for *arrivants*" (1997, x). Although counting is indispensable for democracies (*Ibid.*, 22), democracies at the present are also crippled by a miscount where the incalculable, unforeseen, emergent subjects of the political, as well as the weak, the minorities, and the outsiders do not count: their votes are reduced to silence in the face of the obvious inequalities. The majority vote system takes into account the votes of the main-stream society. It reduces lives to numbers in a statistical ontology, an undecidable demos to the rule of decision out of always already limited choices at the ballot, and temporality of the people

to a silent past that repeats itself in the face of numerary,⁴⁸ ontological, racial, class- and gender-based inequalities, misrecognition and violence.

The country man *survives* there and “[t]his time of surviving thus gives” (*Ibid.*, 14) the time of politics of agreement, decision, counting, and equality, although this time succeeds only in effacing itself,⁴⁹ in a refusal to move forward. Time holds still. His demand for access to the law has not been justified. *Not yet*. Final decision for the incalculable arrival has been deferred to the future, to an otherwise democracy of the future, to a democracy-to-come where the self and the other will have been recognized as equals (before the law and before each other).

Drawing on Derrida’s notion of “democracy-to-come,”⁵⁰ I argue in this thesis that the first theoretical gesture should be making the situation of present democracies visible in order to point out what is *wrong* and what can be transformed toward a greater socio-political justice, toward an *otherwise democracy*. In order to thematize and recognize the present, what is present in public, and the self of a people, on the other hand, one should direct theoretical attention to the lifeworld Habermas severed off the *agonistic* political relations that tend to foreclose, mute and render invisible and absent. He notes that although the line between the public and the private⁵¹ is widely contested and undecidable, we should all the same aim to formalize the line to secure the autonomy of the political (Habermas, 1995, 129), though I argue that the lifeworld leaves an ineffaceable *trace* imprinted on the way politics is

⁴⁸ One of the unfortunate consequences of the majority vote rule is the dismissal of minorities’ votes, which may even lead to the tyranny of the majority.

⁴⁹ It effaces the alterity and singularity of the present subjects and demands, i.e., through misrecognition, *Ibid.*
⁵⁰ As an unforeseen “event,” 1997, 18; as “the question of the citizen or the subject as a countable singularity,” 22; as a “perhaps,” 28; as the self-contradictory present’s coming out of joint and addressing itself forward, 32; as an invitation to share, 35; as a “messianic structure,” 36; as a “community of those without community,” 36; as “response and responsibility,” 37; as “welcoming what remains undetermined and indeterminable,” 38; as “keeping quiet together,” 57; as “*unheimlichkeit*,” 58; as One as the Other and the “we” as Them, 57-58; as *feigning to be precisely what one is*, 60; as “new justice,” 64; as heteronomy of decision, 69; as enemy as best friend, 72; as the end of self-immunity, 76; as belonging without belonging, 80; in sum, as “*paradoxical, aporetic, impossible* manner of community, law, equality, the republic and democracy,” 82.

⁵¹ The private constitutes another secret, what is held from the public.

conducted, an obvious but *secret* trace of the past one ought to pursue in the present regulation of the sayable.

The main argument I develop in my thesis will be twofold: Firstly, I aim to illustrate that Habermas' deliberative politics is prone to disregard zones of unspeakability in the lifeworld that are yet to be recognized as political in their indeterminacy, such as new and risky (dis-)identifications, disruptive agendas, and other progressive political (dis-)engagements that reveal the secret as a secret, as Lyotard, Rancière and Butler argue. The emergent subjects, demands, acts and speeches of the political out of the private, daily, aesthetical, and historical constitute the sphere of the singular that the law fails to identify, address and represent: "There is no democracy without respect for irreducible singularity or alterity, but there is no democracy without community of friends ...without the calculation of majorities, without identifiable, stabilizable, representable subjects, all equal" (Derrida, 1997, 22). The aporetic situation of the present therefore refers to the relation, perhaps dialectic, or the tragedy between the two aspects of the political that affect and leave traces on each other.

Secondly, I will study temporality intrinsic to politics of a robust democracy conceived as structured by antagonisms, civil disobedience, disagreement as well as agreement, ethics, solidarity and social bond. Radical differences, disagreements, and any discursive enterprise directed against the constitution of the 'we'⁵² that may decentre, destabilize and perhaps 'queer' the main-stream political structure for Habermas should be overcome; it is all unsayable, unauthorized speech-acts in decent politics. What follows is also a "queer-y" into the limits of discourse that plays a vital role for Habermas' deliberative democracy, an inquiry into its secret past that is in plain sight, and the silence that surrounds its "origins." As my intention here is to trace temporality of politics, the past that still holds the present in its hold and Butler's understanding of the queer as that which has an "obscure

⁵² The 'we' in this sense is a sect, and a secret in its undecidability.

origin" (Butler, 1993, 176) mark the undecidability of constitutive principles of democracies, identities, times and spaces that need to address themselves to their past in order to arrive at an otherwise future.

The futurity present democracies need is represented and embodied by this undecidable figure. The queer exemplify the *aporoi*⁵³ in a conflict staged on the borders of democratic communities that signals a wrong that has always already constituted the inner "outside" of a "we" where they are "absent" legally or in a lived way.⁵⁴ Any "community," any "we" is performed by the mobilization of belonging by virtue of birth/blood/citizenship. However, as Livermon notes "belonging exposes the differential power relations that are sometimes obscured in the language of universal citizenship" (2012, 299). The queer represent the people out of place within democracies where they legally belong, but surviving inequalities, violence, lack of recognition. Their *situation* signifies a temporal gap between the law and the lived situation even when they have rights (say, to marriage); and when they do not, it signifies a time out of joint as they feel forced to re-enact access to the Constitution to demand them as part of *the people*. Belonging, Livermon concludes, "navigates the fraught relationship between forms of legal/constitutional freedoms and social and cultural freedoms, serving as an important reminder that the existence of the former does not guarantee the possibility of the latter" (*Ibid.*).

Drawing on these theorists, I argue that historically 'the people' could have never been present in the political world if they had never successfully challenged and represented the (formal or lived) norms of their present as wrong; 'the people' first enacts its undecidability with the indignant discourse of the anonymous mob that speaks, not to agree but to re-present its political world as heteronomous, unjust and limited, and itself as the people-to-be that would unmake the law of the present. Speech here is not a demand for

⁵³ The *aporoi* denotes those who are neither included into nor excluded from a shared life.

⁵⁴ They are living a "secret," i.e., an unrecognized life socio-politically, culturally, and ethically.

justification by lifeworldly norms, but an invitation to respond to a future political world that has yet to become. The staging of belonging and making a 'community' in fact mirror the undecidability between the agonistic and solidaristic currents of the political that are intertwined in the act and speech.⁵⁵ The decisive distinction between an act of speech and a speech-act, however, lies in the reference of the former to a *possible, otherwise future derived from the past*.

Conclusion: The Past, the Present, and the Future

I have argued that the ground-making speech-act of the political is not agreement-oriented, rejects justification by and authority of present norms, and subjectifies heteronomously. Habermas' approach does not take into account the disruptive performativity of the act that poetically changes *what it means to be a people*, as well as *their constitutive presence*. If the latter is registered by the former indexed to the rule of the law, how do the people re-constitute themselves if they cannot disagree with the law? In a similar vein, how can they say something unanticipated by the law of the past, if they have to agree with the present law of the sayable?

The paradox of transcending the self that is supposed to give the law through the law occurs because of the paradox of normativity Habermas overlooks in his preoccupation with agreement and legitimacy: the constitution is justified by the people who will have always already been constituted by it as a people if they successfully utter it. Paradoxically, subjects speak to authorize norms, but speech constitutes and authorizes subjects to make norms, and norms subjectify people authorized to speak. The vicious circle is ended when the people perform themselves as the sovereign subjects of the political that they will have (never) been. Habermas' legitimation-by-discourse model assumes that the people's agreement and presence justify the law, although before the law will have represented them as a people, they would have been a mob. The constitution is either made by a mob which will always already

⁵⁵ Likewise, every act of speech is also a speech-act that it will have been if successful.

have been a people if it is/was made successfully, but a mob is neither lawful nor sovereign. Or it was a people that has a presence in its making, it means there always already is/was a constitution in place that has already represented them as the people and they did not make it. If they did not make it, they cannot be sovereign or lawful. In any reading of the aporia, the people who are both constitutive and constituted, both legislating and subjectified by the law they are supposed to justify by their presence and discourse, occupy a problematic and provocative temporality. The sayable discloses the problem of origins on the one side, locating the source of authority in the people, not calling to question why the people agree to the agreeable, what law in their constitution in the past makes them say the sayable, how they internalize, re-iterate and act on the norms that make them what they are.

The sayable in this context conflates the community of subjectless speech with the people subject to the law; Habermas pursues and expands on consensus as the moral principle of making sense *thrice* as a gathering of demos, of words, and finally of norms. Derrida, on the other hand, disagrees with the ethical conception of the law as consensus, the appeal to which “produces in fact the indecent transgression of the classical norms of reason and democracy” (1988b, 259) since it founds democracy in an alien law external to its logic that robs the people-to-be of a chance to speak against the present norms that may do injustice. In fact, Habermas reduces the experience of coming together to an address free of performative contradiction, ethical obligation, disagreement, risky experimentation, and poetic freedom that characterize the political.

To pursue the ramifications of the paradox of normativity, the original address of the law of the sayable was thus the private, the *pri*, a past one always refers to in speech though the allocation of the origin of shared meaning onto this site was not justified by the law that authorizes the archive with the task of justice. As the law of justification does not address the thorny issue of its own origin, it instead refers to itself in an obfuscating silence regarding its

authority delegated to privileged mainstream identities favoured by the archive. "Here a silence is walled up in the founding structure of the founding act," Derrida explains (1992, 11), since questioning the origins of the principles of speech, or more precisely calling into questions the principles of speech-acts, leads to a performative contradiction. And a self-contradictory speech-act is no lesser an offence than violation of the law of the sayable, in other words, speaking nonsense, not making sense to one's fellow citizens. If questions regarding the origin of the principles cannot be put into words in the 'proper' language, how can they be put into words at all?

This brings the matter of temporality, and *the past*, into the domain of speech as the arbitration ground of the political. Historically the representative formation of the people, the meaningful relations of the lifeworld and the sayable were achieved in a violent exercise of unauthorized self-invention by the mob, performed outside the discursive politics, that left a trace on the way we speak, do politics and exercise autonomy today—all made possible by heteronomy, by the law inherited from the founding others in the past. Yet this performance, the act of speech "We, the People," made them what they were not, a people. It changed the meaning and rules of what it is for a people to be. It made them otherwise. *Therefore what Habermas takes as the justifying presence of the people is a normative but precarious representation from a lawless past, of a people performing its undecidable identity and forever seeking to ground its norms through speech that invites 'us' to become otherwise in the future.*

Speech of those who have long been gone and speech from those who have not yet been (the act of speech is open-ended as it only refers to what is to come, to the future) circumscribe what can be said at the present by the 'we' who is neither and both. In the following chapters I will illustrate this point by turning to the *aporoí* in general, i.e., the victims of Nazi genocide, the slaves in Ancient Greece, and Palestinians in the present Israel.

They are neither a part of the people, nor fully excluded. Their speech refers to a future democracy where they are recognized as equal subjects. It may have been so far determined by a normative structure of the past that continues to exercise control on the *arkhē* of speech and *archivum* of meaning, in that the constant reference to the *private* archive of norms may effectively demarcate what counts as speech that makes sense in *public*, viz., the sayable, and dismiss the rest as nonsense that should not be uttered in any respectable political setting. If the happiness conditions of their speech-act are only sought in the present/presence per the Habermasian account, the anchorage in the archive tends to close down the gap, reducing the aporia of absence/presence to representation, and a wish-to-say to the sayable.

In the thesis the terms “wish-to-say,” “wish-to-hear,” and “wish-to-live” are used to denote both the performativity and performance of acts of speech contingent on the future, and their possible success. As acts of speech do not have stable, codifiable rules, conventions, or happiness conditions at the present, the wish expressed or demanded depends on how “well” they are performed if they are to be actualized in discourse, responses and within a peaceful shared life. I also argue that acts of speech express nonsense by the present’s norms; they do not make sense unless the act is successful, and when it is, it changes the meaning of what it means to be the subject of the act expressed therein, as well as the referential relations and coordinates of the political world where it is performed. To take what I shall call the “wish-to-say” as an example, since the speech at stake in the act is contingent on the success of the act as well as the making of a political subject, object and world, it is not speech per se, but a *wish to say* that may or may not come true depending on its performance, and be heard as rational, political discourse of a lawful subject to come in a democracy to come. Similarly, a wish-to-hear is a performance by the addressee on whom a demand is made and may or may not recognize the address as if it is voiced by one of ‘the people.’ And finally a wish-to-live is none other than the fundamental demand that finds its expression in a democracy-to-

come, a life structured by freedom, equality and peace with otherness and others not recognized as one of 'us.'

The subject-to-come that wishes to say is at its present not a recognized part of the archive. The subject-to-come is aporetic: both one of us but not heard and responded to as if it is one of 'us' in the archive. As the archive is institutionalized into the constitution, the past that has (never) been risks being the present that hijacks the future of democracies. The speech-act turns into a constative, the reality of a people safeguarded in the archive. The loss of the performative dimension within representation potentially deprives the people of a chance to democratically engage with the law one can only iterate; and democracy remains a promise or a threat to itself.

Chapter 2. Address of the Law: It Is We Speaking in You

In December 1955, when Rosa Parks refused to give her seat to a white person, she disagreed with the law of the past, saying words that were unsayable, performing unauthorized actions in public at that time, acting out of character as a Negro, refusing to be a Negro. Hers was an act of speech that troubled the rule-governed speech-acts of the political of her present that relied on the repetitive representations of the past. It created anxiety because it was not authorized by the law, could not be justified by the law of racial segregation it violated and exemplified an act of civil disobedience, which by definition cannot be foreseen or incorporated into the positive law. Yet she made use of an undecidability regarding the sovereignty of the people: she defied the sovereignty lodged in the positive law, but vindicated the sovereignty that necessarily originates from the people. She authorized her unauthorized act of speech, and acted in defence of the constitutive principles of democracy, and mainly, ideals of equality and freedom. The law she (un)made was followed by others who submitted themselves to her example, heteronomously acting like her in order to be the sovereign people that they would already have been once they did so.

Legalization of civil disobedience is still somewhat unsayable, as the fragile limits to it within which the Rose Parks of the world can perform non-violent but constitutional acts of disagreement with the law, are undecidable by the law that would authorize them. The paradox brought into the fore by her act of speech is one of authorization and sovereignty. Moreover, it revolves over the undecidable character of acts of speech that enables performance of unauthorized speeches and actions—the unsayable of the present. Again, when Rosa Parks refused to give her seat to a white person, she was disagreeing with the unjustifiable segregation economy of visibility of the time that *characterized* black citizens as inferior. What she uttered made visible the black self in public, that is to say, she represented an ineffable character within the unthematized American lifeworld that embodies the law,

prompting a movement of dis-identification with the subjugated subject position. Her act thus both dis-identified and identified the subject of the political.

Since Aristotle in *Politics* defined the human by the capacity of rational speech to persuade others, speech makes the human political because it is used for articulating what matters to a polity in general.⁵⁶ Habermas too assumes that speech institutionalizes the formal frame of autonomy in deliberative democracies where rational argumentation, persuasion, deliberation and judgment coordinate action and make the rule. However, I shall argue in this chapter that voice/speech also has a politically subjectifying and recognizing function that I trace in its oscillation between rational address and irrational threat/promise. I am only interested in this duality because these are the basic terms in which subjectification operates. Subjectification matters because it sets up the scene of the political, peopling the world with subjects and creating the sensible forms in which they can appear.

Moreover, Habermasian liberal democracy seems defined by an anxiety over irrationality. There is a threat to singularity, sovereignty and individuality in the Habermasian scene of subjectification on the personal level; and on the collective level, the clamour of a mob similarly troubles the Habermasian project of deliberation. Rosa Parks subjectified herself through a conflict, followed by a mob that threatened the people with a society-wide disagreement. If rationality is rule-following, she acted on a thin line between rationality and

⁵⁶ Although the voice can also express pleasure and pain, what distinguishes the human being in its use of the voice is the expression of the just and the unjust. It is the sharing of this rational capacity to voice matters of justice that make a household or a polis. Likewise, the gist of a political life for Hannah Arendt, speech, makes us political beings as we initiate collectively coordinated action by discourse and elevate from mere creatures of pleasure and pain to subjects capable of judgment. She follows Aristotle in asserting that "[m]en in the plural, that is, men in so far as they live and move and act in this world, can experience meaningfulness only because they can talk with and make sense to each other and to themselves" (Arendt, 1958, 3). Because speech enables and sustains both rule of law and rule of the people, ideally, in an institutionalized public space, everyone is entitled to speak within and take part in legislation. In *Human Condition* she states it emphatically that "wherever the relevance of speech is at stake, matters become political by definition, for speech is what makes man a political animal"—even to the extent that "[a] life without speech and without action . . . is literally dead to the world; it has ceased to be a human life" (Arendt, 1958, 3; 176). To be fair, Arendt also takes into consideration singularity but reduces it to a non-political truth: "There may be truths beyond speech, and they may be of great importance to man in the singular, that is, to man in so far as he is not a political being, whatever else he may be" (Arendt, 1958, 4).

illegality. The millions followed her. Her example shows singular acts of speech embody both a threat and a promise.

Habermas thus falls short of grasping the political situation of subjectification and recognition in its entirety. Indeed, I argue he aims to sterilize and formalize speech, theoretically distinguishing between the action-coordinating and subjectifying functions of language on one hand, and formal justification and authorization functions on the other. However, whether in practicing self-rule in public, or becoming a self in private, speech is employed to address, recognize, identify and make sense of another person who makes demands on us, and an address is made to those identified and recognized by the address. Habermas too acknowledges the role addresses play in our subjectification but dismisses singular identities as dangerous pitfalls of subjectivity that leads to disagreement and gives no authority to the self (which is transcended) in the Ideal Situation of Discourse.

In this chapter I thus de-idealize the 'ideal situation' in order to make visible the liberal anxiety over the (ir)rationality of the address of the law that subjectifies us. Disagreement for Habermas hinders identification with the people symbolized by the law and must be overcome. However, I argue that the matter at the heart of democracies is *also* the rationality of disagreement with an unjust law and dis-identification with the submissive position of the addressee. Dis-identification requires assuming responsibility for the response to the law. The emergent people transcend their self, the 'we,' constituted by the law of the past that demands agreement and threatens with sanction in case of disagreement. Since the 'we' is always on the process of becoming otherwise, sometimes organized as the law-abiding good citizens who speak in turns, and sometimes as a raucous mob that brings down governments, the sovereign is always (an exception to) the norm that it (un)makes, (dis)identifying with its self. I shall investigate how dis-identifications could be possible

within Habermas' context of speech and drawing on Butler's understanding of the subject, argue that a lawless character is necessary for the exercise of sovereignty.

My argument proceeds by first taking a critical look at Habermas' theory of subjectification, as one that enables private autonomy in an encounter with the voice of the law. I shall point out the shortcomings of his account where the self, *when threatened by future sanctions and forced to agree*, internalizes the main normative orientation in order to be the *sovereign* that one (never) is, taking over the voice of the law that transforms intersubjective relations of recognition into rules of action. I shall argue that speech in fact subjectifies as a pure address of sovereignty, stripped of concerns of validity because its basic function is to place 'me' into the wider society of the 'we.' The latter point reveals the primary address as one in which the self becomes autonomous through heteronomy, by submitting to the law of an other due to the possible sanctions that lurk behind the demand for agreement. In Habermas' account, the child has no choice but to submit to the voice of the law in order to achieve recognition; hence the heteronomous constitution of the autonomous subject. And the threats and possibility of punishment, as well as the promise of a shared life constitute the *force* of the address of the law as Habermas implies. The voice of the law makes autonomy possible only through heteronomy and submission, by the trace of the addressor that *forces* the addressee. Yet this unjustified threat and demand form singularity and a character. And that unruly remnant Habermas termed a 'character' hinders sovereignty by sovereignty, exceeding both 'me' and the 'we.'

The first section explores in what terms Habermas conceives subjectification while the second emphasizes formation of "character" as a singular individual which is depicted by Habermas to be at odds with the political project of identifying with the "we." As I pursue the undecidability between autonomy and heteronomy in these sections, the third section completes my argument in returning to the past where the "we" was constituted by and as a

mob where autonomy was indistinguishable from heteronomy. In this primal scene of the people, I argue, identities on the brink of (de-)formation are also destabilized and rationality gets dangerously close to the (ir)rationality of a mob where the voice (dis)places “me” within the “we.” The mob⁵⁷ symbolizes the ultimate breakdown of the Situation of Discourse; speech gives way to action in politics and silenced people act to (un)make the norm. This constitutive moment ruptures *and* brings together, (dis)agrees and makes a demand unforeseen by the law to make the law.

2.1. The “me” and the “we”

Habermas, in offering his own account of subjectification, draws on Mead’s research on linguistic development of the self (Habermas, 1992, 171-193; 1987, 96-100) where the linguistic competence children achieve enables them to critically reflect on themselves, adopt the perspective of the listener as well as that of a speaker.⁵⁸ I shall pursue the question of what role speech plays in this process. Habermas suggests that the second person perspective, generalized into a reflective self by the address, brings about an impersonal identity, “me”⁵⁹ that through dialogue turns into a universal “we” that signifies the sovereign people:

The individuation ... is explained by the linguistic medium itself ... the logic of the use of the personal pronouns, and especially ... the perspective of a speaker who orients himself to a second person... [:] this speaker cannot *in actu* rid himself of his irreplaceability, cannot take refuge in the anonymity of a third person, but must lay claim to recognition as an individuated being ... the speaker qua actor lays claim to recognition both as an autonomous will and as an individuated being. (Habermas, 1987, 190-191)

How can speech reconcile universality and singularity in one breath without giving rise to a lived conflict for the self-to-be? As a ‘medium’ of the law that takes subjects as

⁵⁷ A mob arises when the people’s demand is not heard. A mob signifies an inner split within the people but it also brings them together.

⁵⁸ The fact that one internalizes conventional norms of one’s society and identifies oneself with a subject position available in one’s culture through speech, however, does not require taking a critical distance from those norms and role identities.

⁵⁹ He writes off the ‘I’ (the pathetic self that feels, desires, and needs) as a candidate for autonomous individual as one has no control over the body, and his discussion revolves around the ‘me,’ an identity shaped through social forces.

anonymous, and as an expression of an irreplaceable person's autonomy, does Habermas' account of the address conflate two functions of speech (collective action-organization and individual subjectification) where the self becomes a part of the 'we' to the extent that s/he follows the law? And is it singularity, or worse, heteronomous constitution of autonomy that is silenced here?

In order to answer, I will bear with Habermas' appeal to a primary address that yields successful integration of the 'me' into the lawful world of the 'we.' He approaches subjectification through primary linguistic interactions with the child that leads to recognition of one's identity and achievement of ethical sense. The child, when addressed by authority, comes to recognize him/herself as a 'me' embedded within the normatively-oriented socio-political world of the 'we' that demands valid responses. Mead's model presupposes a capacity of mutual understanding between the parties to this initiation dialogue. In Mead's theory of naturalistic development of language, transition from gesture-mediated to symbolically-mediated interaction occurs "by means of a mechanism he calls 'taking the attitude of other'" (Habermas, 1987, 9). Whereas primitive interaction is based on responses to stimuli where each organism "acts as if the [first] gesture were an expression of the intention to bring about this result" (*Ibid.*), higher level social interactions involve 'internalization as making objective structures of meaning internal: the self relates to itself not by making itself an object but by *recognizing* in an external object, in an action schema or in a schema of relations, something subjective that has been externalized" (*Ibid.*: emphasis added).

The primal scene of subjectification for Habermas is not predicated on a simple adoption of mirror images of action, beliefs and words (i.e., mere mimicry, mimesis, representation; cf. Leys, 1993, 285), but recognition of and by a Generalized Other with which the child can start an inner dialogue of shifting positions, anticipations, expectations,

and a whole system of relations that make up a world of life “because a subjective world to which a speaker relates with an expressive utterance gets constituted only to the extent that his identity is formed on relation to a world of legitimately regulated interpersonal relations” (Habermas, 1987, 26). The self comes to life in, responding to, and sustaining a lifeworld with meanings symbolized in actions that will have built a self of its own by virtue of “the pressure to adapt that participants in complex interactions exert upon one another” (*Ibid.*, 12). The situation figures as a scene of address where one feels a threat, a hope, and an ethical urgency to recognize the self and the other as expecting a response.

When they can take this ‘attitude of addressing the other’ toward themselves as well, they learn the communication roles of hearer and speaker; each behaves towards the other as an ego that gives an alter ego something to understand (*Ibid.*, 13).

In addressing a significant other who addresses him/her back, the child recognizes a normatively structured world s/he *ought to* recognize him/herself as an individual within. This generalized voice promises autonomy, ‘arouses’ a wish-to-say, and expresses a wish-to-hear the right kind of response if the child has a wish-to-live in the world of others. It becomes a haunting voice with which s/he also addresses him/herself as an ‘autonomous’ person.⁶⁰ The self’s interpretations of the other (and second degree interpretation of itself as responding to that interpretation), the other’s expected interpretation of the self (and again second degree expectation of an interpretative response to that interpretation) follow a sequence of addresses (and expressions of disappointments) until they finally match and both parties reach agreement, identical meanings and norms of action embedded in those addresses.

⁶⁰ Habermas here quotes Tugendhat: the scene of address takes place “where one does *respond* to that which he *addresses* to another and where that response of his own becomes a part of his conduct, where he not only *hears* himself but *responds* [i.e., answers—J.H.] to himself, *talks* and *replies* to himself as truly the other person replies to him” (*Ibid.*, 14: Habermas’ emphases).

I argue that subjectification for Habermas is equally a symbolic action, i.e., *an act of speech* where the subjects-to-be recognize the principles of recognition they also have to apply to themselves in order to be a socially viable self (i.e., autonomous but also submissive to the law). For Habermas this speech-act becomes normatively binding when addressees are responded to, following the same norms of speaking and acting.⁶¹ As Habermas' elucidation of Wittgenstein's concept of rule shows, these rules lay down "examples of something [universal] that can be seen in them. ...; only the application of a rule makes the universal in the particular apparent to us" (*Ibid.*, 16). Speech imbued with normativity produces subjects both unique (here "autonomous") and universal (following the same rule) since a rule can account for the meaning of examples that have a family resemblance, like individuals peopling the same life-world (*Ibid.*, cf. Wittgenstein, 1953, 87).

Habermas' account of validity of rules, mutual critique and instruction and an ability to have a yes/no response to the question if a rule has been followed justifiably brings together speech (address), subjectification (recognition) and intersubjective validity (normativity, authority, the law). Although faced by significant others who make daily demands on the child, the universality of the self is thus achieved through identification with a General Other that comes in the form of laws. Habermas thus places the capacity to internalize, question and criticise norms at the centre of the self-development where the child is addressed by the voice of the law that orients, gives commands and expects normatively valid speech-acts. Since the child anticipates a threat when he fails to give the expected response, expectations of sanctions too are internalized through taking the attitude of other.

At the end of this perilous journey of recognizing oneself being recognized by an other, through an abstraction process the child arrives at universalizable principles s/he adopts as an autonomous person as well as a critical perspective on what can be best

⁶¹ But the organization of the "we" as well as its respective norms vary and are not given.

described as a community consensus on normative expectations and obligations that may at first seem threats and arbitrary commandments of authority. Not only taking over but also thinking through and selectively internalizing/critiquing those norms, as Habermas elaborates, the child's motivational structure is altered from a parochial interest-oriented one to a wider social mindset of mutual recognition, obligations and rights. S/he becomes an autonomous "me" firmly anchored in the social world of the "we." "This utopia serves to reconstruct an undamaged intersubjectivity that allows both for unconstrained mutual understanding among individuals and for the identities of individuals who come to an unconstrained understanding with themselves" (*Ibid.*, 2).

2.1.1. *The Structure of Agreement: the self and the other*

Many have criticised this model on the grounds that there is no pre-given, monolithic normative edifice that encompasses unequivocal, undisputed principles of action symbolized by the General Other (Weir, 1995, 271). Although the utopian character of his account reduces speech to a means of flawless re-iteration of The Rule, it is the ghostly 'we' embodying the voice of the law that is the problematic crux of this model where an address becomes the site of the unaccounted transition from merely submissive anonymity to autonomous individuality. My interest here will lie in how speech presents the autonomous self to itself via the law that comes from others; Habermas promised an account of the birth of the autonomous self, but so far the emergent self seemed to submit to the voice of the law of others.

Habermas' story implies that the self-to-be has a wish-to-live in the lifeworld, has a capacity for understanding the intersubjectively structured, rule-governed character of meaning that appears to justify threats, sanctions and limitations. Although Mead argues that "the authority of *obligatory* norms comes to be by the way of the internalization of sanctions that are de facto threatened and carried out," Habermas thinks Mead locates the motivating

force in violence, instead of a promised life as a member of the social, and argues that “the growing child learns these patterns of behaviour through anticipating the sanctions that come from violating a generalized imperative, thereby *internalizing the power of the social group* that stands behind them” (Habermas, 1987, 38: emphases added). The authority of the law is transferred by the social generalization of behaviour patterns and consists of a threat of sanctions that the child needs to give assent to (*Ibid.*) if s/he has a wish-to-live in the socio-political world of others. This moment of universality also contains the claim “... that a norm deserves to be valid only insofar as, in connection with some matter requiring regulation, it takes into account the interests of everyone involved, and only insofar as it embodies the will that all could form in common, each in his own interest, as the will of the generalized other” (*Ibid.*). This ‘we’ that signifies the sovereign people is heard as a disembodied voice of the law that addresses, gives life to and threatens the subject through *thou shall not*; the only right response to its speech is, so Habermas underlines, “I agree.” Although Habermas emphasizes that “I agree” is characterized as a *rational* consent, it is received as a forceful demand akin to prohibition. It is worth noting that a child is not quite capable of rational consent and thus responds to the sanctions, threats of punishment and implicit coercion in the demand:

When A regards the group sanctions as his own...he has to presuppose his assent to the norms whose violation he punishes in this way. Unlike socially generalized imperatives, institutions claim a validity that rests on intersubjective recognition, on the consent of those affected by it. (*Ibid.*, 39)

Therefore in order to attain recognition as a viable self, Habermas suggests, one needs to agree with the norms of the ‘we,’ i.e., rationality that make all autonomous and sovereign. Recognition of the subject and intersubjective recognition of the law are mutually implicative if one wishes-to-live, i.e., wishes to share the power of the group, i.e., speak, act and live in a

world of others as one of 'us.'⁶² In fact this point parallels with the criticism that "the discourse ethical procedure in fact transforms forms of mutual recognition into abstract rules for the coordination of action" (Bernstein, 1995, 189). The voice of the Generalized Other does not only tell the subject what to do, act in imitation of others and represent itself as a universal self in conformity with the law; it also tells the autonomous subject into existence, grants recognition and represents it as a recognizable self worthy of a place in the world of 'we.'

As Habermas notes the actual persons are absent in this picture; the Generalized Other is transmitted by speech into a nebulous pre-self that is given life as someone only after this conversation is over. Before or during the conversation, however, only commandments of a subjectless discourse prevail. It addresses its present self in arbitrary commandments, or *represents* to bring a self into presence. Since this process constitutes the self, the subject is not yet present at the moment. Likewise, Habermas abstracts significant others out of the picture and generalizes them into the voice of the law. At this level of abstraction the child learns to relate to him/herself through the dialogue with the voice of the law:: "A pattern of behavior that A internalizes in this sense takes on the authority of a suprapersonal will," (Habermas, 1987, 34) a Generalized Other that the self, when addressed by it, 'can split up the communicative role of alter into the communicative roles of an *alter ego*, a participating counterpart, and a *neuter*, a member of the group present as an onlooker" (*Ibid.*, 35). The child learns to relate to her/himself as a third person through the address of others, as an interchangeable instantiation of the Generalized Other s/he can impersonate in order to avoid sanctions. Whereas Habermas tries to cast subjectification as a rational process, the threats/promises involved in the constitution of the self indicate prohibitions, coercions and force, rather than rational consent are central. The self starts with anonymity and ends up

⁶² C.f. the master and slave dialectic in Hegel's *Phenomenology of Spirit*, esp. 113-117 and Butler's reading of the dialectic in *Psychic Life of Power: Theories in Subjection*, 1997, esp. 42.

with anonymity as far as the law is concerned; its autonomy and sovereignty are equated with heteronomy and submission. In the interim it hears incorporeal voices that tell him/her what to do; it tells one to imitate an Other, find itself in *mimesis* of a super ego that s/he will have (never) been.⁶³ Although Habermas characterizes it as a critical learning procedure, the child relates to him/herself through mimesis.⁶⁴ The generality of the patterns and norms of speaking, acting and living implies that these norms apply to *anyone* represented and addressed by the law in these terms. And mimicry is in the anonymous, submissive way the subject takes up these patterns, makes them his/hers, identifies with the heteronomous representation in and through oneself to become the autonomous, sovereign self that s/he has (never) been. It is an act of speech of recognition that also culminates in the promulgation of norms that sustain and limit sovereignty and recognition.⁶⁵ But as Habermas also supposes this schema of recognisability to be firmly universal (impersonal, and generalizable regardless of the singularity of the recognized) *the unique character* of the recognized remains unaccounted for, and perhaps unaccountable for, within and by the normative structure. In the next section drawing on Butler, I shall argue that this constitutive act of speech also leaves singularity of “me” unrecognized as an undesired, as an unforeseen remnant inassimable to the collective identification.

2.2. A Private Self of One’s Own: Silence as Wish-To-Say

The law does not only coordinate action but tells subjects into recognizable existence as a sovereign self. Yet obviously we are not clones, but also unique individuals that contingently become a subject acting in particular ways. Speech, Habermas and Mead seem to argue, subjectifies and legislates without giving rise to any possibility of conflict between the law

⁶³ “Since the Habermasian other appears as such to the subject as only a generalized other, it would seem that the subject itself can only become a subject for-itself (through the other) in a similarly generalized fashion, i.e., as a structure of internalized responsibility attuned to the normative requirements of social life” (Haysom, 2009, 654).

⁶⁴ The mimesis involved in Habermas’ account of subjectification is a process of universalization in the sense that one represents *oneself* as a Generalized Other, speaking, acting and living the way an image from the archive that one identifies with speaks, acts and lives.

⁶⁵ In Butler’s terms, the act of speech both relies on and re-instates “a certain criterion to establish what will and will not be recognizable, a frame for seeing and judging” (2001, 23).

and life, individual and society, self and other. But what can give rise to unique individualities, a radical transformation of the “we” at large that re-enacts its sovereignty, and innovative (dis)identifications unless there is a performative contradiction, a twist to the primary address that returns the subject to itself in such a way that a creative tension occurs? “Individuality too,” Habermas writes, “is a socially produced phenomenon that is the result of the socialization process itself and not an expression of residual, natural needs that escape that process” (*Ibid.*, 58).⁶⁶

2.2.1. *A Lawless Remnant: character*

Habermas criticises Foucault’s framework of subjectification as empowerment that leaves no room for individuation.⁶⁷ And “[f]rom his perspective, socialized individuals can only be perceived as exemplars, as standardized products of some discourse formation—as individual copies that are mechanically punched out” (*Ibid.*, 293). Accordingly, Habermas also attempts to avoid the assumption that discourse produces normalized, almost identical subjects.⁶⁸ He responds to this line of questioning with:

The identity of the ego can then be stabilized only through the abstract ability to satisfy the requirements of consistency, and thereby the conditions of recognition ... The ego-identity of the adult proves its worth in the ability to build up new identities from shattered or superseded identities, and to integrate them with old identities in such a way that the fabric of one’s interactions is organized into the unity of a life history that is both unmistakable and accountable. An ego-identity of this kind simultaneously makes possible self-determination and self-realization. . . . To the extent that the adult can take over and be responsible for his own biography... [o]nly one who takes over his own life history can see in it the realization of the self. Responsibility to take over one’s own biography means to get clear about who one

⁶⁶ Of course Habermas denies the alter ego, subconsciousness and psychodynamics of subjectification that may lead to an irrational repetition compulsion to please the law that gives one social life and an acceptable identity. He seems to identify the subject formed by the address of the Generalized Other with the superego, though my argument remains neutral regarding psychoanalysis and does not make use of its theoretical tools. I also suspend judgment on the question of whether the subject is the Id, the Ego or the Alter-ego, if these concepts have any applicability here.

⁶⁷ “Then, however, the socialization of subjects capable of speech and action cannot be simultaneously conceived as individuation, but only as the progressive subsumption of bodies and of all vital substrata under the technologies of power” (Habermas, 1990d, 287).

⁶⁸ Yet Habermas overlooks the affective capacity of speech stripped off all signification, information, and concerns of validity—speech as pure address of authority, as a demand, as an invitation, as a call that one cannot refuse or refute if one wishes-to-live, as too-muchness of an address (Santner, 2001, 32) that throws one off into a world, a selfhood and a law one didn’t choose.

wants to be, and from this horizon to view the traces of one's own interactions as if they were deposited by the actions of a responsible author, of a subject that acted on the basis of a reflective relation to self (Habermas, 1987, 98-99).⁶⁹

Yet if the plasticity of the self is contingent and an ongoing project for life, the question remains as to how he can theoretically achieve keeping two processes, of legislation and subjectification, from collapsing into one and the same dialogue in a daily life context; one becomes an autonomous self through submission, and forced to be sovereign, responsible for that which one has no other choice than agree on. He responds that '[t]his problem can be dealt with if we distinguish ... between language as a medium for reaching understanding and language as a medium for coordinating action and socializing individuals' (Habermas, 1987, 23). But the primary address is the primal speech-act that comes as an authoritarian combination of the two languages where the voice offers a life (of organized actions) to and threatens (with withdrawal of recognition) a presence that lacks the rational capacity of deliberation and critique at that age. One is asked to respond before one is able to be responsible and submits to the law if one wants to survive as the sovereign self one is forced to be. One cannot be fully responsible for one's self. For Butler too the self cannot be accounted for fully: "The 'I' is the moment of failure in every narrative effort to give an account of oneself. It remains the unaccounted for and, in that sense, constitutes the failure that the very project of self-narration requires" (2001, 37). If the self has a wish-to-live, it also should wish to enact its heteronomous representation since it cannot author itself without internalizing authority, i.e., the law of others first. In sum, if it seeks recognition, it needs to agree with the norms of recognition.

⁶⁹ He suggests that "identity of one's life history is a maintained by projecting goals into the future around which one's present identity is organized (Habermas, 1987, 102-105; cf. Taylor, 1989, 25-52). That is, if one is autonomous, one can locate oneself in terms of biographical projections ('projects') and retrospections. These provide, as it were, a content to the self. When one thinks or says 'I,' this refers to the reflexive traces of relations or says 'I,' this refers to the reflexive traces of relations with the world that have been maintained, desired, projected, or broken. This 'I' is not, of course, guaranteed metaphysically or otherwise" (Warren, 1993, 217)

Drawing on Butler's notion of agency, I shall criticise Habermas' understanding of subjectification to argue that he does not make room for singularity, individuation and political resistance. Butler notes the 'me's being outside 'myself' when she writes that "[t]he possibility of the 'I,' of speaking and knowing the 'I,' resides in a perspective that dislocates the first-person perspective whose very condition it supplies" (2001, 23). In other words, the reflective relation to the self needs to be mediated (through the voice of the Generalized Other). "The 'me' represents not only the particularities of moral consciousness tied to tradition," Habermas claims, "but also the constraints of a character that impedes the development of subjectivity" (*Ibid.*, 99). The subject is born into the story of the 'we' with a *character* that inhibits the internalization of the law, which also is a social attainment, but unaccounted for in Habermas' picture. Habermas simply remarks in passing on this irrational aspect of the singular self that disputes the authority of norms and asserts its sovereignty: it appears as a wish to talk back to the law since it impedes internalization of the law which is different to the heteronomous submission to the law. Since the subject comes to life at the first address, it apparently too slips in as an uninvited but *necessary* passenger. The aporetic line between heteronomous submission and rational internalization is situated in the domain of the 'character' that negotiates and navigates sovereignty.⁷⁰

In Butler's account our responsibility and agency "begins where sovereignty wanes" (1997, 15-17) and in this context it is to be situated not in the lawful 'I' but in a character excitable and out of control. A character, or *kharakter* in Greek, is an indelible mark on the soul, and since it was put on place not by the individual but by an other in Habermas' account, it is not represented to the self that is marked down or presented to discourse that can give an account of it in representation: the generality of the address consumes *character* without being able to represent it within the schema of recognisability that is always too

⁷⁰ It forms inside the heteronomous self an autonomous wish-to-say, for it is not a representation of the 'we' that asks "Yes? Or no?," or solely an achievement of the atomic subject of speech who has an exit option and says "No, I disagree and don't belong with 'us.'"

universal. For Butler, too, singularity turns into the limit of recognisability in normative terms and discourse addresses 'me' to a specific other in their singularity as well as questionable universality that borders on substitutability one's singularity contests (*Ibid.*, 24). And "in giving the account, I establish a relationship to the one to whom my account is addressed, and whether both parties to the interlocution are engaged in a sustaining address, a revised scene of reciprocal recognition in which full accountability is neither expected nor provided" (Butler, 2001a, 31). If a *character* is formed by other's demand to respond in the scene of recognition necessarily structured and limited by the schemas of recognizability, it is formed as an *unrecognizable stranger* within the "me" that exceeds these limits. Character has an undecidable origin: it does not arise out of identification with a significant other or the Generalized Other. It makes one singular, (outside) one's own norm, just like the sovereign.

The law, on the other hand, demands full identification. In speaking, one repeats the words of the Generalized Other. In responding to the law, one speaks like a child, or a stranger one does not chose to be. The law gives no orders to the subject, but orders into existence the subject that will have always already acted it out: full identification with the 'we' implies uncritical submission, and a loss of sovereignty that comes with the character. The character doesn't necessarily have to be explained away as the irrational self,⁷¹ because autonomy, i.e., the law of the self, is always given by the life of a self that rather fades into otherness without being able to represent it in speech. "The address that inaugurates the possibility of agency," Butler says, "in a single strike, forecloses the possibility of radical autonomy" (1997, 26). For the purposes of the argument all Habermas needs to admit is the possible presence of *character* in private, a secret locus of singularity and irreducible individuality alongside the rule-governed representation of the self.

⁷¹ To take an example, as typical sub/unconsciousness in psychoanalysis, or a remnant of the first encounter with a significant other that transforms a child's un verbalized intentionality (McIntosh, 1994, 7), desires, impulses into strange tendencies and needs but I am not interested in debates on psychoanalysis here. Character doesn't buttress a theory of radical autonomy like Habermas, neither does it refute nor locate the agency of the autonomous self in a darker place.

2.3. *A Loss and Disruption to Sovereignty: temporality of character*

Therefore we identify 'the twist' to the first address that sets up an ongoing *creative tension* between the law and the self, a chance of being otherwise than the law suggests, a discursive opening to the private self that is not let in the public space. It is the same private identification that Habermas suggests one 'transcended' in an Ideal Situation of Discourse. And this unruly, unspeakable, and secret part of the self is foreclosed from the political, locked in a silent, private place since it presumably "impedes the development of subjectivity" in a political world that cherishes subjectless speech. At this point, Habermas' terminology falters and vacillates between lionization of subjectless subjectivity and dismissal of subjectivity that impedes subjectivity (which is the criticism he directs at Foucault).⁷²

What Habermas rather means is that the character is not a *sovereign* part of the self the law can control since it is not put into place by the law that the self agrees on, but as it is an indelible mark left during the address of the law, and a split within the self that disagrees with the law, it must be a secret trace of the address unrecognized by the law. So just as Mead writes, "when an individual puts himself in the place of another he is speaking as the other has spoken ... [but t]hat mutual control we transfer to the other person... controls us [even] when we are not putting ourselves in another's place." (Mead, 1914, 69-70) The unnerving presence of a character for Habermas can be tolerated as long as it is kept within the private realm since it foils the pursuit of absolute rationality and public sovereignty. However, drawing on Butler I argue that it *is* necessary for exercise of sovereignty as there may be times when one needs to critique, resist, dis-identify with, and disrupt an unjust law. As long as character constrains the self, even after the address that marked its trace ended, it must be another instance of heteronomy. It is a silent remainder to the heteronomous constitution of

⁷² He might have assumed that whatever impedes subjectivity might be welcome as a democratic value since political discourse, one may mistakenly infer, necessitates suspension of subjectivity but he does not.

autonomy, the submission that always accompanies sovereignty; character is a stranger that disagrees with and thwarts the fantasy of *sovereignty* as mastery over and full responsibility for 'me' and the 'we.'

Butler re-articulates the disturbing remnant of 'me' that escapes the universal schematization of norms and foils full narratability and mastery as an interruption necessary for a shared, democratic life built on the concept of popular sovereignty: "If a life is constituted through a fundamental interruption, even interrupted prior to the possibility of any continuity, then narrative reconstruction will also have to be subject to an interruption if it is to approximate the life it means to convey" (2001, 32). The interruption, I argue, is temporal: *subjectification precedes the subject*, as a secret past of the authority that brings 'me' to life but limits 'me's being made fully autonomous, sovereign and discursive. "Me" at its constitutive moment breaks with the past that has (never) been in order to be present before the law through "the process by which I cease to be able to return to what I was" (*Ibid.*, 23) unless it is re-enacted. For Butler the re-staging of the encounter is possible because "me" is both "subjected to that norm and the agency of its use" (*Ibid.*) and a *character* is precisely what allows for and interrupts the representation of what was (not) present from the view point of norms one does not author. At that moment, Butler adds, "I find that the only way to know myself is precisely through a mediation that takes place outside of me, exterior to me, in a convention or a norm that I did not make, in which I cannot discern myself as an author or an agent of its making" (*Ibid.*, 23).

Representing oneself anew, however, entails appropriation of the authority of norms one does not author —*sovereignty enmeshed in submission*— in order to authorize the character as a part of the political world, disagree with an unjust law, speak and act like the sovereign people we (never) are. Recognition is performed constantly, on a day-to-day basis to reveal and make visible what has always already been foreclosed from discourse and

denied a place within the 'we' divorced from the people that have to submit to each other in order to be sovereign. Every time this moment is repeated, 'me' re-articulates its undecidable character to disclose its otherness to others (submitting itself to others as an other) and make it a part of the shared world; if this is a means for bridging the gap between 'I' and 'me,' its unsayable past and lived present, it is also the futural way in which an 'I' becomes the 'me' that it will have always already been once it is re-presented to and by others. But it is also the *interruption of the present with a reference to the past where character was constituted, and the re-articulation myself as a future self* that includes the otherness in oneself. For Butler this is experienced as a vacillation between ecstasy and a loss on the personal level; and on the collective level, I shall argue in the next section, it is lived by the sensation of one's identity (and personal sovereignty) lost in the undecidable identity (and sovereignty) of a mob where the subject re-enacts its constitution as a process where it is displaced, *moved beside and outside itself*.

2.3.1. *Mob-ility of Speech Again: A General Other in the Extreme*

In this section I shall examine the implications of subjectification for politics. I will argue that the mob, analogous to the character, is necessary for the exercise of sovereignty. The undecidability between submission and sovereignty, between the people's voice as the law and unjustified violence of an amorphous mob that defies stabilization of identities, rational discourse, and coordination is parallel to the constitution of the subject with two polarities in Habermas' thought. The perils of the voice, (un)freedom, (ir)responsibility, law, violence, (dis)agreement and (dis)identification creates a source of anxiety within Habermas' project of agreement-oriented deliberative politics that reduces the voice to coordination of action.

2.3.1. *Perils of the Voice: Mob and Identification*

To further the analogy between the individual and collective levels, in the presence of the law, the subject hears a voice (of the 'we' in its undecidability as the lawful, sovereign people

or the violent mob submitted to their own ecstasy) that will be his/her own voice (that never is one's own) and sees a re-presentation that will bring him/herself into presence outside oneself: This is an imaginary identification, a loss and ecstasy over an image as one of 'us.' "Our need for imagery is fundamental," Mead states, "for it is by that means we can put ourselves in other people's places" (*Ibid.*, 97). This image that secures identification,⁷³ the 'me,' Mead and Habermas argue, cannot be equated with the mob psychology where the "we" takes over 'me':

When the community is merged with us the restraints are gone.
Everyone is doing the same thing. In the sense that the critical process
is interfered with this may be called the lower stage of consciousness
(*Ibid.*, 73).

The mob is where the self is not present, just like when it is in the situation of constitutive address; one repeats the words of others without thinking, without asking for a justification, simply belonging. It seems as though the highest and the lowest stages of consciousness are quite alike, and an address of authority can dis-identify just like it identifies.

What stands radically opposed to the self is identification with the 'we,' which, as Habermas suggested following Mead, provides the possibility condition of the self that authors itself with authority (sovereignty) it never/always has. When in a lawless mob, one hears voices that one can only repeat but not understand; speech is given over to and by an other not fully identifiable with those present. One is always present, acting in agreement with the mob one is submitted to, disagreeing and making the law as the sovereign people. But since no individuation can take place in a crowd, one instead finds oneself in the anonymous representation of the law gone drunk with (unauthorized) authority, a spectral generalized other that gives seemingly arbitrary commandments and issues threats just as the Generalized Other does to a child. It has the same character as the law that bizarrely approximates to 'character,' an unruly unity not universalizable, escaping and impeding

⁷³ "But one always carries with him a picture of himself which he has seen in the glass, and that is, in his consciousness, the individual to whom all these other individuals are responding.... Just as soon as he takes the place of another, he will have to present himself over against the other, the looking-glass 'I.' (*Ibid.*, 70)

discourse and rational demand for validity. Speech does not represent a subject, but also gives rise to and is given over to a presence (dis)possessed, or diffused by a representation that the self, although identified with it, cannot recognize itself within.

What if speech subjectifies when stripped of validity claims, as a voice one cannot say yes or no to sovereignly, but that almost seduces, nearly hypnotizes, brings one besides oneself, attaches, leaves a mark when it 'transfers control' to an other unrepresentable to the controlled? How does it control even when the self oscillates between absence and presence,⁷⁴ between 'me' and 'character' in the world of the law that oscillates between the submissive 'we' and the sovereign 'mob'? A mob usually emerges when public discourse fails to represent or hear a character as the subject of the political (that is, *not as one of the sovereign people*).⁷⁵ A new 'we' is always on the threshold of birth when those who have a character disagree long enough to find a voice and speak for the whole community *qua the mob*. Disagreement here occasions the responsible kind of subjectification that Habermas asks us to undertake in 'building up new identities' (Habermas, 1987, 98-99).

Making a new identity in this context implies representing oneself as one of the 'we,' (un)making the norm that makes one what one is (not), and being otherwise. Disagreement re-enacts the constitutive moment of the people when they take responsibility for an unjust law and form a demonstrating 'we' (the mob). But the mob also dis-identifies with the 'we' of the present society as an injustice that wrongs the people that need to be heard as the sovereign people. Becoming a people, Habermas implied, requires taking over, being responsible for and transcending the present self that has (yet) to be (*Ibid.*). Disagreement is an aporetic act of speech that fits perfectly Habermas' definition; it both identifies and dis-

⁷⁴ Butler suggests that "at the most primary level we are acted upon by others in ways over which we have no say, and that this passivity, susceptibility, and condition of being impinged upon inaugurate who we are" (2003a, 90). For her "the other is always there, from the start, in the place of where the ego will be" (*Ibid.*, 52), as a character that defies full characterization in discourse.

⁷⁵ But the people do not only live in public but in a lifeworld where 'other' kinds of characters are disagreeable and foreclosed from the public realm of speech in communities of a lived law.

identifies, offering a discursive site for making of new identities, because it is futural. It is engaged in constitution-making and constituting people into a collective identity that transcend their selves in the mob. Why the anxiety over its irrationality, then?

2.3.2. A Mob at Work: Constitution-Making

To credit Habermas, his model incorporates disagreement in the form of resistance and even civil disobedience when the maintenance of the legal order itself or a clash between the law and the constitutional principles is at stake (1985, 136).⁷⁶ When disagreement brings discourse to a halt, Habermas adds, a background of shared ‘thin’ beliefs, practices and institutions must bridge the gap between dissenting parties: “I would like to suggest that the performative meaning of the practice of constitution making ...provides a thin yet sufficiently strong base to be shared by citizens in their interpretative struggles—within a pluralist society as well as in the supranational sphere” (*Ibid.*, 193; emphases added).

Yet the work of constitution making historically was done by the greatest example of the ‘we’—the mob as the *sovereign people* that disagrees, makes a constitution they submit themselves to without the guidance or protection of a constitution, and finds agreement within disagreement. Habermas contends that “constitutional law-making has a performative meaning” (*Ibid.*), but this meaning has been, in most cases, disclosed by a (non-)subject of politics that transcends discourse, rational representation, and validity; it has just embraced a wish-to-say that cannot be turned down by a ‘No’ when it was successful. And although Habermas rightly points out that the “performance of those founding acts [of self-governing communities]...thus contains an implicit, intuitively available meaning that is the same for everybody” (*Ibid.*), it subjectified a hitherto nameless community (the people) only in so far

⁷⁶ Michelman (1998) and Waldron (1999) argue that the multiplicity of interpretation of the law and consequent disagreement on rules, procedures and constitution undermine the assumption that public discourse is oriented to agreement: “But he [Michelman] realizes that the continuation of debates on conflicting interpretative issues would lose its point and would turn into a bizarre, even opaque practice,” Habermas *disagrees* in his response, “if participants were not tacitly presupposing, albeit counterfactually, the *possibility* of an agreement that is worthwhile to aim at” (Habermas, 2003, 192; emphasis original).

as it de-subjectified another of the past (the subjects of the king, the proletariat etc.). The practice endemic to the grounding of the self-governing community was thus undertaken by strangers to the art of government who had to re-interpret disagreement into a founding act of agreement; they also performed themselves as the sovereign people that they have (never) been. And performativity involved in these speech-acts took unjustified acts and creative re-interpretation captured by a world-disclosing language of the new, and a silent absence turning into a presence that has a *character* to say the unsayable: "We are the people." They performed and took on a meaning formerly unavailable in political discourse, invoking the law of others they would have become, making a claim, not of validity but authority. Their act of constitution-making was not constitutional (there was no constitution that could justify their claims). It oscillated between violence and law-making, submission and sovereignty, illegality and legitimacy, a threat and a promise, absence and presence.

'The people' of course has been the founding speech-act of modern democracies, but less remarked upon by Habermas who seems anxious about the performative art of constitution-making is the fact that 'the people' has been a recent and violent invention, perhaps dating back to French revolution, that for ever since sought its voice and representation in a political world that it simultaneously attempted to build and deconstructed thereafter. Before that, 'the people' had no meaning, let alone an "implicit, intuitively available meaning that is the same for everybody" (*Ibid.*). In fact 'the people' was constituted by a mob that did not so much speak meaningfully as threatened and promised, and after the act of speech became otherwise than what it was. Habermas' remarks on the performativity of the people seem to betray an anxiety over the constitutive past of the people that still has a hold on the present situation of democracies informed by the fear of the mob rule, violence and socio-political transformation.

Exploring the political perils as well as promises of voice, Frank argues that the voice of the people brings into visible existence the image of the people that performs itself in the situation of discourse that indissolubly brings together sovereignty and submission in the act of representation. He pursues the theme of hearing voices in the context of deliberative democracies where voice represents an autonomous presence speaking for itself, genuine, sovereign—a “people” with specific needs, rights, obligations and identity that could be mobilized in the general schema of organized actions of community. To this conception of voice as indicating a ground of authority, Frank opposes another vocal performance that moves, ravishes and persuades without offering reasons; one that overwhelms, captures, and controls by shaping the perceptions of its audience. If “the people,” as argued by Frank in the Introduction of my thesis, is a claim, an act of speech of self-justifying authority, voice is definitely a part of the performance that determines the success of the act of speech.⁷⁷

The vocal performance conveys a subliminal message and gets ‘under one’s skin,’ by masterful eloquence, rhetoric, addressing desires, hopes and affection: those perils of the voice that contribute to the performativity of constitution-making are also what troubles the Habermasian project of rational persuasion, deliberation and agreement as they chime with submission rather than sovereignty. However, those ‘perils’ accompany every speech that mobilizes the undecidability between rational persuasion and ‘seduction’ that appeals to one’s desires, hopes and wishes: if one does not hope for what is suggested in an address, or is situated in a conflict of interest, sadly, there is not much rational argumentation can do and an *affective force* is and should be a part and parcel of the persuasive power of any public argument. To repeat the criticism by Alvesson, “[d]esires, norms and thoughts are not immediately responsive to good arguments and the twists and turns of discussions as Habermas supposes” (1996, 146). Habermas theoretically sterilizes speech into a purified

⁷⁷ Voice therefore does more than organization of collective activity in political terms; it also acts on others, persuades, brings about a change etc.

force of universalization free of sentiments but paradoxically relies on a *sense* of belonging that *pre-affects* the parties to the dialogue: “every requirement of universalization must remain powerless unless there also arises, from membership in an ideal communication community, a consciousness of irrecoverable solidarity, the certainty of intimate relatedness in a shared life context” (Habermas, 1990c, 48). But if the mobilization of this pre-affection is foreclosed by Habermas’ anxiety over the force of speech, then, as Bernstein maintains “[t]his ethical substantiality is in a sense entering blindly, without cognitive sense or rational meaning, since Habermas already deprived such intimacies (feeling, affects, concerns) of any but de facto sense by handing over to communicative interactions hegemony” (Bernstein, 1995, 190).

Frank’s exploration of the paradoxical nature of authorization and vocal performances is *not* done simply in praise of political demagoguery: “The capacity of voice to bring forth an immediate response plays an important role in the constitution of public authority in postrevolutionary American political culture ...as [t]here was an animating tension in postrevolutionary American political culture between the authority of written texts (like constitutions) and the authority of spoken voice” (Frank, 2010, 163). In postrevolutionary America, he continues, when a self-governing community needs authority to ground the ground-zero speech-act, its authority is believed to perform itself through voice beyond representations that brings about autonomous acts of self-constitution, but Frank’s study reveals that the self that lays down its self-law to perform itself speaks the words of others.

Frank’s debunking of the fantasy of the voice representing a self-constitutive, autonomous presence also maps onto his reading of Charles Brockden Brown’s antidemocratic novel that negotiates the paradoxes of *vox populi* taken to express the popular sovereignty, *Wieland*: in the novel all characters act as if they are autonomous but actually submit to the voice of others that have always already told them what to feel, say and do.

Although the people symbolized by the heroes and heroines of the novel express their ideas, opinions and suggestions (the origin of which, paradoxically, cannot be traced back to them), they do so upon hearing disembodied voices of others; the pivotal character, Carwin, for instance, persuades, influences or forces them.⁷⁸ As the voices (of Carwin, of an old stranger, of God, of the past, of the ghosts, and of other others) multiply, the people as well as their voices in the novel are re-constituted as a constantly shifting metonym, (im)possible to represent, similar to a mob.

Although they raise the voice of the people, it rather leaves undecidable who it is that speaks when they do. "Through the novel's device of ventriloquism," Frank elaborates, "Brown rejected this fantasy of vocal authenticity, or rather revealed its persistent but disavowed reliance on fantasy" (*Ibid.*, 163-4). The fantasy he refers to consists of mistaking acts of mimesis for autonomous speeches and acts, "most poignantly *democratic* self-captivation, the phantasmic identification with what is taken to be collective voice" (*Ibid.*: emphasis original). When one submits to the fantasy that the vote one casts, the decisions one makes and the words one utters are fully autonomous, singular expressions of one's own choice and expressions of a sovereign will of one's own that authorize the general will, there always is the worst risk of imagination at work, and "we must understand the role of imagination in constituting that authority, in constituting all authority" (*Ibid.*, 166).

The risk at stake culminates in the undecidability between autonomy and heteronomy, a threat to the representation of the collective voice as the aggregation of identifiable voices that indicate individual presences. The liberal anxiety over the mob is perhaps the same as the apprehension over the voice of the 'we' as an *imaginary*, fictive collectivity (the people identify with) that nevertheless escapes its monolithic representation as the sovereign people.

⁷⁸ His performance is sometimes purely rhetorical and sometimes performative and through performances of other kinds, he plants opinions, ideas and words in them, at times impersonating a frail old man (*Ibid.*, 161), and at times the voice of God (*Ibid.*, 160). The Calvinist past of the family (that signifies the American society of Brown's present), as well as the lost members of the family, too, Brown implies, have always already predetermined what the present members can say and do.

Yet where our peril lies also lays a promise. Going back to the primary address that is the main concern of this chapter, through *imagination* the child may envisage the world, the self and the 'we' otherwise than they had been designated by the authority of generalized other.⁷⁹ The emergence and dissolution of a fantasy starts with speech that takes one out of one's command, with a commandment.⁸⁰

"Brown's novel reveals our irreducibly uncanny relationship to law and the impossibility of full democratic autonomy," Frank concludes, as "it suggests that since we are at once the agents and sufferers of our own rule, fantasies of agency and fantasies of submission are a single part of the interpellative scene" (*Ibid.*, 181). When speech turns into the authoritarian voice of an absent authority, it authors the self that becomes autonomously submissive and submissively autonomous at once. Paradoxically, the self can only be autonomous within the context of a shared life which this voice introduces one into whilst at the same time locating the law of the self outside one, in primary submission to others. My argument is that speech basically subjectifies by giving the law as if all law comes from an other we can neither identify our selves with in a representation nor simply turn down to leave the scene of the 'we.' The main use of speech is making demands on others, but it is not a demand for validity; it is a demand to be heard and responded to as if one is an authority.

Conclusion: The Law of Others

It is a platitude since the post-linguistic turn that the self is an effect of discourses, yet, as Habermas admits, discourses project the heteronomous structure of the lifeworld onto the discursive constitution of the self that takes part in legislation. In this chapter I argued that the major subjectifying address (of the law) for Habermas takes place when the self was neither

⁷⁹ Through imagination and ethical creativity, s/he can craft a new identification. And through the failure of imagination that turns down fantasies of norms, s/he may also fail to identify with the voice of the law. In following the rule provided by the law that moves imagination through the interplay of presence and absence, through the invisible voice of the Generalized Other coming out of one's mother, s/he can learn to be a girl, and at times a boy, or anything at all. S/he may even love that which threatens its autonomy and self-integrity from outside and find a threat in the love given by the 'we.'

⁸⁰ It is not quite a commandment as it lacks justifiable authority but still makes one what one is (not). A commandment relies on authority, but the address at stake is constitutive of authority and cannot be taken as a simple commandment.

absent nor fully present, hearing and submitting to the voice of a threatening authority, and thus becoming undecidably heteronomous and autonomous, since the law one makes one's own comes from the others that make the self what it is. The primary address is therefore aporetic: it constitutes an autonomous subject through heteronomy, makes politics possible by delimiting an apolitical remnant ("character") and builds rationality with recourse to irrational threats and promises.

The sayable in this picture, however, is circumscribed by the rule-following Habermas characterizes as the universal condition of recognition in the act of speech that 'I agree on the rules.'⁸¹ In this utopian framing of subjectification, Habermas *reassures* his readers there are no paradoxes arising among the three functions of speech as means of subjectification, of action-organization and of legislation. Yet through the address of the law, I argued, speech subjectifies, regulates the future actions of the child, and secures the consent by making sure that one will only be a valid self as long as one follows the rules, says only the sayable, and acts properly within the normative limits. However, the law the child agrees on is not his/her own, but the law of others that both imperils and enables the project of autonomy. Thus the chief issue with Habermas' account is the fantasy of absolute sovereignty that robs the people of a chance to disagree with an unjust law, dis-identify with the self that the law assigns to them, and say the unsayable without having the authority to do so.⁸² Recognition of the heteronomous constitution of autonomy restores the absolute authority of the law back to the people, to those in the past, in the present and in the future.

⁸¹ For him, "I agree" captures both the use of a personal pronoun that signifies an irreplaceable individuality, and acceptance of an emergent autonomy which the child achieves by critical internalization of norms of speaking and acting in the lifeworld of the 'we.' The emergent self gains validity and a life through universality, and through universality it is recognized by the law as an autonomous individual capable of agreement.

⁸² The scene of subjectification involves autonomy only as entangled with heteronomy in such a way that in making the law we refer back to the law of others, and in speaking agreeably, we say the words of others; speech is thus the re-iteration of the words of others that we will have been once we spoke (cf. Butler, 1993, 242) and it is to their law conveyed to us in the past that we owe our present autonomy.

In Habermas' theory the political is delimited by the sayable that leaves the character out of the picture. His gesture is analogous to the totalitarian politics that tend to exclude minorities, the *aporoï*, and the subordinated. The departure for the unsayable, however, takes the identification of the self ('character') back into the picture, focusing on what kind of new possibilities of the 'we' can be disclosed if we apprehend speech as a demand to be heard by the silenced. Habermas insists that discourse does not represent or identify a self (2002, 155). Yet acceptance of rigid, hegemonic shared forms of life in a democratic society may motivate an investigation as to how self-legislation can go only so far, leaving the identity of ourselves and our society unquestioned, and silencing the unsayable. As opposed to the identity of the subject that cannot break with the rigidity of the sayable, I argue that subjectifying addresses always promise a subject-to-come, with an opportunity to dis-identify with the 'we.' Dis-identification involves deconstructing the identification of the self and should inevitably take the detour of precarious representative publicity of our character. One should first represent publicly the private self that is yet to be recognized as a subject in the political.⁸³

Once we reveal what types of economy of visibility and audibility prevail in our lifeworld to privilege the public representation of dominant identities, we may criticise the principles of recognition that sustain fantasies of absolute autonomy reduced to rule-following. But freedom seems achievable through unfreedom, uttering what is so far unsayable to be free of an unjust law, though the origin of the "primary" autonomy that enables us to do so may always defer to others we owe our selfhood to, and can never be free of.

To conclude, Habermas equates deliberative politics with the sayable of the law but excludes singular identities, emergent political agendas and new subjectivities under the rubric of the 'character.' And the critique cannot take the current law based on agreement as

⁸³ That is not to embrace metaphysics of the self that cannot be captured by our human and fragile speech, but to come to terms with an unescapable failure of representation of socio-cultural constitution of the self that always leaves behind an element that escapes identities and creates a space for dis-identification.

its starting point. I believe theories of radical democracy that take into consideration the regulation of the private in general may make better sense of the way that fantasies of autonomy demand absolute submission to the law that silences “the Rosa Parks” of deliberative democracies. In disagreement, one may demand justice beyond the law, articulate the ineffability inherent to the prevalent norms that constitute the self, represent it in public, and hopefully dis-identify with it for a subjectivity to come through freedom afforded by the unsayable. With this aim, we should look at how the self is structured (Chapter 3), what regulations of visibility are in place on the public space (Chapter 4), and what makes disagreement possible (Chapter 5) with the hope of a democracy-to-come.

Chapter 3. The Remnant of the Law: Justice to the Silenced

The last chapter, through a scrutiny of Habermas' framing of deliberative democracy and speech, aimed to give an account of why fantasies of justification and sovereignty may silence and make invisible those who may need to dispute an unjust law. In this chapter I will argue that the most basic relation of our political present is established by the lived limits to representations that constitute and foreclose the emergent presence of what threatens and promises the *sovereignty* of the people.⁸⁴ I shall take politics as a constitutive address that forms the sovereign people with authority to speak. The situation of address, however, excludes those who are not seen as part of the sovereign people.

To illustrate, I will visit the horrors of Nazi Germany to explore the most radical situation of address where the law was wrong, rationality bordered on the technical cruelty of insanity, and possibility of persuasion was nil.⁸⁵ The victims of the genocide, mostly citizens with rights and state protection, were excluded from the society because their characters were at odds with the identity of the Aryan sovereign. Habermas' sayable in this context refers to speech-acts that have all three kinds of authority; the legal authority to make norms, the constitutive authority to build a community these norms apply to, and finally the representative authority to entitle a political subject as a recognizable member of the community with the first two types of authority.⁸⁶ The genocide victims were deprived of all three authorities. Their socio-political presence was foreclosed. They merely embodied a wrong. Yet what if it is the law that wrongs, denies recognition, excludes and silences? Can one have the legal authority without the constitutive and representative authority in this case?

⁸⁴ The grammar of language in this sense is analogous to the law that wrongs, curtails, dismisses or marginalizes the differences and dissenting voices seemingly inassimilable to the repetitive representations of the past.

⁸⁵ There, the undecidability between sovereignty and submission was violently decided away; the futurity inherent to the people was closed as if the question of who the sovereign people are could be decided; the *aporia* were judged not to be a part of the 'we'; and the S.S. wished to constitute a community untroubled by them. This was almost a poetic act of speech in that it was about the re-articulation and re-formation of the political community.

⁸⁶ All three types of authority invested in speech-acts bring together the political power to represent with the representative power to constitute. Speech socio-politically constitutes what it represents, while representations legitimize the socio-political authority of discourses. Thus the law constitutes, subjectifies and recognizes as subjects only those that legitimize its authority and the unopposed prevalence of sanctioned discourses.

Or, can the silenced others be heard if they are not recognized as citizens, members of the community, a part of the 'we'? Drawing on Lyotard's agonistic conception of politics, I shall argue that the wrong occurs as the law only recognizes and authorizes what it constitutes: how is it that disagreement with the law cannot be heard as a legitimate claim of the people who take part in legislation then?

To foresee my conclusion, the wrong consists of a mode of *sovereignty*—i.e., sovereignty lodged in the archive and ossified as the authority of rules of the self that refuses to hear an other that says what doesn't make sense by the present norms. Here if one frames speech as making-sense by the present norms, the emergent subjects of the political would not only be excluded from, but also foreclosed by the ossified representations of the 'we,' as their novel and menacing "character" makes them unrecognizable by the law. Unrecognized and at odds with the normative criteria of membership, they would not be the members of the community. They would not have the constitutive and representative authority, and they would not have the authority to speak.

The foreclosure of the *aporoï* troubles the situation with a power conflict where zones of unrepresentability and unspeakability emerge and the project of sovereignty enters into a state of emergency. The *aporoï* are constituted paradoxically both as an exception to the norm (the Constitution that does not recognize them as a part of the sovereign people) and the norm of the community that is structured around the foreclosure of the *aporoï*. I shall characterize the *situation* of the people who do not count as a part of the 'we' in terms of a *political emergency*: in the sense of an exception to the norm that it defines, it is the emergency of sovereignty in the sense Schmitt uses the term (1985, 5), and in the sense that the *aporoï* emerges as an exception that makes the rule and as a remnant,⁸⁷ it relates to the subjectification and emergent subjects of the political. Given that this being before the law

⁸⁷ Cf. *Remnants of Auschwitz*, Agamben, 1999.

constitutes the whole community by the people's own force formalized into the Constitution, emergency in the second sense relates to a creative force and self-creation of the sovereign people that addresses its *self*.⁸⁸

In this chapter I shall draw on but go beyond Lyotard's philosophy first to introduce an *ethics of responsibility*, response, and hearing. My second aim is to argue that the future rests with the hitherto unsayable—a sort of relationality that may turn to, hear and respond to the our present engages in a violent encounter with the silenced other that emerges where discourses meet their limits at the silence around the constitution of the people—the unsayable that at the present takes the representative form of a material silence, i.e. *the matter of the community*.⁸⁹ With an act of speech the propositional content gives the priority to the illocutionary force. And in a situation of discourse of violence, inequality, oppression and unfreedom, rational argumentation by propositional content loses its relevance.⁹⁰ In this radical situation of address, the weaker can only wish to rely on the ethical force of their suffering; they, as wronged bodies suffering the breakdown of rational discourse would represent the injustice of the situation *as visible* on their presence. They would reveal their injuries; and having failed that, they would expose the wrong through and on their dead bodies. If this is an address, it aims to dissuade by means other than rational speech. That is why visibility takes priority over audibility. Exposing the oppressors to the violent image of a

⁸⁸ These terms denote acts of speech in a situation of conflict where discourse of the weaker is not heard by the stronger as the future norm, and silenced by violence, inequality and unfreedom. Lyotard calls the situation a *differend*: those excepted are wronged by the sovereign whose discourse is incommensurable with their discourse. They are not heard as a part of the sovereign people and silenced by the power. When rational argumentation and persuasion fail due to the irresolvable conflict of power between the addressor and the addressee and discourses cannot be bridged, the weaker can only wish to be recognized, heard, and responded to as one of the sovereign people that make the law, and offer its silent presence that testifies to the situation to interpretation. The wish-to-say is thus an attempt at representing what is not represented as one of 'us,' living among us but absent socio-politically; it also performatively expresses the situation, and bears witness to a socio-political and ontological wrong.

⁸⁹ Silence in this context should not be conceived as the metaphysical opposite of speech but an inarticulate anxiety of a possible discursive contact between a material wish-to-say and an ethical wish-to-hear.

⁹⁰ Rational persuasion works fine in an ideal, power-free situation of discourse between equal parties but it would be naïve to assume that in Nazi Germany the oppressors would have stopped killing the weaker if it had been argued nicely. The wrong is a wrong that turns rationality against itself when the law goes mad with power.

mount of naked, emaciated, dead bodies they are responsible for can only wish to demand an ethical response, a wish-to-hear.

The wish-to-hear is the act of speech of recognition: the 'we,' exposed to the ethical plight of the weaker and addressed by their silent presence recognizes the wrong, the vulnerability of the addressors, and their equality before the law that they, too, can (un)make. Bridging the two wishes together is the force of representation, the illocutionary force of speech, of being exposed to suffering. The force brings the political community back to its ethical origin where the constitutive authority of the law matches the force of the social bond with the unjustifiable illocutionary force of the address of authority that represents us as the people: it is the risky and anxious gesture of submitting oneself to the addressor as if it is the law-giver.⁹¹

But their silent presence in the situation is an act of speech that demands to be heard by the persecutors;⁹² they of course may hear what has (never) been said by the pile of dead bodies: they may seek words in the visible, re-interpreting them as speech that would be filled by their own, and perhaps accusative words. The accusative mode of address is what provides the transition from 'seeing' to 'hearing': it of course points fingers back at the self, but it is also the legal mode of address conceived by Althusser in *On Ideology* as a form of subjectification that he names 'interpellation' (Althusser, 2008, 44-60). The unvoiced 'Hey, you!' the dead bodies (never) say could be taken as the address subjectifying the 'we' that, as the addressee, refuses to hear and the others who, as our addressors, even in their silence keeps saying the unsayable.

⁹¹ In the first chapter I gave an account of the wish-to-say in the context of civil disobedience: Rosa Parks' act of speech was not justified by the norms of her present but it (un)made the norm. She also represented the situation of the wrong that could not be addressed by the law of her present. And finally, she represented a political subject claiming a place within the archive of the sovereign people that speak to (un)make the law.

⁹² The shift from 'seeing' to 'hearing' is an imagined one (and not a notion native to Lyotard's thought): technically, dead bodies do not speak but rather induce a state of speechlessness in those who see them. Unless the oppressors have a wish-to-hear, the dead remain silent. Although the feeling is similar to the one induced by the sublime, they rather visually represent the wrong that can of course be re-articulated or in Lyotard's term re-phrased into an address.

Silence is thus a contact between the sovereign and the foreclosed, between a material wish-to-say and ethical wish-to-hear. It bears witness to the wrong, and articulates an ethical obligation to be heard as one of the sovereign.⁹³ Lyotard calls this frightening moment of silence *the differend* which the 'we' should prepare itself to receive a new law from: "the differend is the unstable state and instant of language wherein something which must be able to be put into phrases cannot yet be" (Lyotard, 1988, 13). If one may have to seek the law that binds us in elsewhere, outside the public space and identifications, it would be, Lyotard argues, an enigmatic call of *justice* that wordlessly forces one to act without seeking justification through speech, in "the silent feeling that signals a *differend* remains to be listened to" (Lyotard, 1988, 171). The conflict, in other words, must be seen as the site of a debate on the future of the 'we,' and the re-constitution of the society.⁹⁴ This chapter explores the situation where 'we' are exposed to the wrong signified by and on others' bodies, as a silent demand: like the pile of dead bodies in Auschwitz, or the muted *Musselmänner* in the concentration camps. In other words, silence may not be heard unless it is seen, in the form of a mute, material presence of others wronged by the matter of the community, and felt to testify to an injustice done by the norms that constitute the material of the society, the 'we' that refuses to hear.

Although the thrust of my argument will be borrowed from Lyotard, I also re-construct his thought to argue that this presence that wishes-to-say is thus first encountered as the visibility of an unrecognizable embodiment, as the bodily presence of those who do not have the authority to speak. They signify the wrong done by the law, and they demand to be

⁹³ The so-far-unrepresentable lives, however, can only indicate the presence of the *aporoi* when heard as a part of the sovereign people, but if it is the 'we' that does not authorize their speech by constituting their wish-to-say as inaudible, this extreme form of disagreement gives rise to a feeling of aporia that cannot be resolved by resorting to the present norms of speech or politics. What counts as speech may fail to address the emergent presence unless it is occasioned by a wish-to-hear (an act of recognition) that seeks words in silence, words muted by the present norms of the 'we.' Yet that requires disavowal of the law of the present community, submitting ourselves to the authority of a silent call that nevertheless obligates and demands a response.

⁹⁴ Moreover when the address of justice, oriented toward the future, is conceived as a silent call, it means that it is embodied by *somebody* wronged in the situation and whose discourse is not heard as if voiced by the sovereign 'we.'

heard as the future law-givers. In offering their visibility, they ask "Will *you* hear my story?," and in speaking they demand an ethical wish-to-hear the unsayable, i.e. what could not make sense by the political rationality of their time, viz. the principles that materialize the community and norms that structure it. Thus they also demand a speech-act that identifies and recognizes them. This wish-to-hear, I shall suggest, involves a poetic creativity to sense the meaning in their senseless, unrecognizable presence. It would represent the traces of the unsayable in the already-heard.

This chapter is devoted to the question of speech when it is the law of the 'we' that wrongs and serves as an address that can both reify and undermine the fantasies of sovereignty threatened by the emergency caused by an emergent presence. This presence, I argue, hints at its precarious representation in the making on the margin of speech, i.e., in *differends* when one needs to respond to a wish-to-say *as if it was the law to come*. A *differend* that characterizes the incommensurability between discourses nevertheless will have lent itself to discourse when one needs to invent a new phrase, concept, representation, or norm to address it. It is our obligation to address it and one is obligated before the law, Lyotard tells us, always already; the future anteriority of obligation makes explicit the futural structure of the obligation. One needs to see and represent oneself as the addressee *before* one responds, and having heard the addressor as the law-giver, one will always already have responded.

The 'before' thus refers to a future that will always already have happened when one hears a silent call in two senses: we response to the authoritarian address of the 'we' that *precedes* us, the law of community responsible for our being the way 'we' are at the present; and we are responsible to emergent others, unrepresentable at the present, who silently herald another political world, others *before* whom we are "stripped of the illusion of being the addressor" (Lyotard, 1988, 111), of our authority and sovereignty. The address thus "contains

together its two faces, freedom and persecution" (*Ibid.*, 112), autonomy and submission, identification and dis-identification, the past and the future, and finally an emergency and an emergent people.

3.1. *The 'We': What Comes Before the Law*

I argue that for Lyotard politics has always been about the matter of the community in emergency—emergency as a state of exception (to the norm, by decision of the sovereign outside of the *law* it is subjected to), and emergency as in the emergent (i.e., a creative *force* employed in becoming a subject, a community, a foreclosed remnant of the matter of community). Lyotard suggests that the two senses of emergency are conjoined in 'being before the law': in my reading, the sovereign comes before the law as its force and decides on the undecidable in order to become what it will have been. For Lyotard, politics intersects with aesthetics to the extent that it concerns itself with forming an emergent community, a totality of subjects addressed by the force of law that precedes the rule of the law: "Nazism would thus be not only the "'aestheticization of politics' but ... the revelation that politics has been, in its essence ... a work of art" for it is the "'fashioning' of a people" (*Ibid.*, 77). The Nazi language of subjectification was that of a self-enclosed totality and unity. By attempting to capture the presence of the people subjected to its grasp, the dominant force of law aimed to found a society on consensus, common identity, and way of life of a totality of subjects as the justifying ground of the law. That which persisted in its difference to the common identity, however, could not *merge*: instead, it emerged, stood out the grasp of the force of law and the confines of the community. It was expelled outside the lifeworld, into the concentration camps of silent suffering.⁹⁵

⁹⁵ The aim of the Third Reich law was thus unification of the nation in *Lebensraum* (Bendersky, 2000, 38) and redemption of Arian race through racial purification (Cesarani, 2004, 196), in sum re-formation and protection of a totalitarian society against an emergency epitomized by the threat posed: the inassimilable remnants of the Jew, the gypsy, the gay, the old, the frail and sick, and the Communists. Uneasiness at the presence of others within the "we" that authorizes the law spanned the conceptual space of the ethical community in Nazi Germany, as well as the feeling that some live among us, though they are not one of 'us.'

In this section I will interpret his understanding of agonistic politics as an aporia: the people precede the constitution of the community and hence stand as an exception to the Constitution (as the sovereign in the Schmittian sense) that constitutes them as the sovereign people: they, before the Constitution, stand outside the law that they will have been subjected to, as an inexplicable exception to the democratic norm, but the movement of making the norm coincide with their self-creation as the sovereign people. The community is formed as the merging of the people, but as it also always already exceeds its unifying, totalizing representation as the people, some of the people (the *aporoí*) have already been excluded and not represented as a part of the people. The foreclosure of what emerges outside the community within the community is, aporetically, both an exception to the unifying force of its norm, and the norm around which it is constituted as a unity.

3.1.1. *The Law as an Enigmatic Address: Indebtedness*

The modality in which this uneasiness with otherness arises finds one unprepared for the feeling of emergency that the situation merits. In coining the term ‘banality of evil,’⁹⁶ Arendt’s controversial depiction of Eichmann aimed to show that in Nazi Germany some of the ordinary people could not loosen the grip of the norm they trusted in even when it clearly failed. They were not simply passive bystanders helpless to bring down the Gestapo law, but sometimes senselessly acting on its prescriptions, its witnesses who performed its justice. Similarly, “the many were neither perverted nor sadistic ...they were, and still are, terribly and terrifyingly normal,” Arendt concludes (1964, 276), noting that Eichmann suffered from an ‘inability to think’ like the sovereign, against the norm that supposedly represents the autonomy of the subjects.

One becomes a subject by being addressed by the law as one and the address makes a demand on one to comply with the law, conducting oneself autonomously but legally, and

⁹⁶ Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil* (Viking Press, New York, 1964).

having an acceptable socio-political presence in the society. Thus, attachment to one's identity given even before one's birth may be considered a possibility condition of the politico-ethical life that revolves around consensus. Because autonomy as self-legislation presupposes that if one identifies with the subject-position assigned by the norm, one obeys the laws one makes, supposedly acting both freely and legitimately.⁹⁷ A wish-to-live in this context is to be understood as submission to the promise of a shared life. Thus a demand is made by the force of law that "indebts you" (Lyotard, 1999, 29) with the symbolic life it gives you as a gift one cannot simply turn down. However, for Lyotard the 'must' of the socio-political forces that represent one as a subject dilutes, opposes and forecloses the 'ought,' a more fundamental relation of the ethical.

Underlying the distinction between 'the must' (of the norm) and 'the ought' (of the law) is a responsiveness to what is present before an enigmatic call.⁹⁸ In the normative address "the first-person plural is in effect the linchpin for the discourse of authorization," (Lyotard, 1988, 98), which means that the norm authorizes itself by the force of a "we," already instituted as a lawful community that testifies to it. Legitimacy is thus framed in terms of the autonomy "principle ... that the addressor of the norm, y, and the addressee of the obligation, x, are the same" (*Ibid.*) as members of community. As in social contract theories, the 'we' that comes to an agreement and gives consent to the norm as the legitimizing force comes before the law that always already formed and authorized it as the legitimate "we." Yet although 'the must' binds, this model provides no answer to the riddle of the paradoxical justification. The inauguration of the norm and the form remains unintelligible, unjustified

⁹⁷ In Habermas' theory of the law, we found out that subjectification, i.e., the conferral of a socio-political life within a lawful society, demands the subject to respond to the duty of the law favourably; if one has a wish-to-live among us, Habermas emphasized, one *must* give consent to the norm, and bear witness to the justice of its representation in return for autonomy.

⁹⁸ "J.F.L. insists once more on the heterogeneity of sentences, more particularly here, on the subtle difference between a normative sentence and a prescriptive one. Whereas the normative sentence 'resembles a performative one' and in itself, by itself, in its immanence, 'effects the legitimation of the obligation as it formulates it', the prescriptive sentence requires another sentence, one more: and this further sentence is left to the addressee, the reader in this case; it is left to him or her, thus to us, to follow up, even if it is, as it is said elsewhere, with a 'last sentence'" (Derrida, 2000, 30).

and mysterious: it only aims to circumvent the crisis of justice by indebtedness to the norm of the "we." In Nazi Germany, the pathological attachment to the 'must' of autonomy and the mindless refusal to disavow it,⁹⁹ Arendt implies, marked the dark side of sovereignty.¹⁰⁰ Paralyzed by the enigmatic legitimacy of the norm that becomes unjust, Eichmann and so many others fell short of doing justice to the conflict that cannot be resolved by the totalizing representations of the 'we.' They could not muster a wish-to-hear the call of others as if it is the law and the norm of an ethics of responsibility.

Irreducible to socio-political norms, Lyotard asserts, the law is characterized by its unrepresentability and inscrutability as an enigmatic address,¹⁰¹ not as a rule legitimized by a representation (the 'we') referred to in speech. In the ethical relation "[t]he law does not demand a proper understanding to make itself heard, it needs you to be dispossessed of yourself," as Lyotard put it (1999, 29), pointing out the disorienting character of the address. Thus emerges an obligation, inexhaustible by the one imposed by the norm, creating a sense of emergency that cannot be dealt with by a static conception of the law: it signifies a necessity for an otherwise norm. "For Lyotard, underneath an obligation derived from the nature of one's subjectivity lies one's prior involvement in and dependence upon the political

99 Cf. Butler's 'passionate attachments' in *The Psychic Life of Power* where she says that "the attachment to subjection is produced through the workings of power, and that part of the operation of power is made clear in this psychic effect" (1999, 6).

¹⁰⁰ I suggested in the Introduction that the norms should be opened to contestation on a daily basis and negotiated through the expressions of popular sovereignty. The example of Nazi Germany brings home what terrible losses may be incurred if they are not. It indicates why the people, when blinded by the fantasy of absolute self-rule, cannot respond to a call of others wronged by the law when an unforeseen conflict in the community emerges and cannot be addressed by present norms.

¹⁰¹ Santner calls the silent body an "enigmatic signifier" that addresses us like a hieroglyph, in its material potential, losing "what it signifies, without thereby losing its power to signify to" (2006, 34). These signifiers ex-cite the subject, disturb it in the recalcitrance of the remnant that exceeds discursive expression or subsumption under concepts. "The opacity and recalcitrance that we associate with the materiality of nature—the mute 'thingness' of nature—is paradoxically most palpable when we encounter it as a piece of human history that has become an enigmatic ruin beyond our capacity to endow it with meaning, to integrate it into our symbolic universe. Where a piece of the human world presents itself as a surplus that both demands and resists symbolization, that is both inside and outside the 'symbolic order' ... What I am calling creaturely life is a dimension of human existence called into being at such natural historical fissures or caesuras in the space of meaning" (*Ibid.*, xv). "For secular Jews, that is, the laws of normative Judaism—the commandments of Torah—experienced as a set of opaque rules—enigmatic signifiers—with which they could no longer identify even when if they did not fully cease to be addressed by them" (*Ibid.*, 39).

means by which one's subjectivity and one's experience of the world comes to be constituted in the first place" (Silverman, 2002, 75). It was the unmistakable call of justice that mobilized, for instance, seven hundred German women helpless before Gestapo into the Rosenstrasse protest, making them Aryan blood-traitors who dis-identified with the normative phantasms of the German 'we' of the time.¹⁰²

3.1.2. *Obligation: Demand, Authority, Sovereignty*

Lyotard deploys the term "law" as a (de)formative address in his texts in three ways: first as an ethical demand, second politically, as the question of the future of the community, and thirdly, in epistemological terms, as a totalizing and unifying narrative. The most fundamental instance is the ethical, where the law is confronted as an enigmatic address which inspires a feeling of performative obligation to testify to the silent call of others. The obligation again takes on a performative character, and urges one to perform oneself as *the addressee*, to act and become otherwise (say, a German-turned-Jew), because, politically, he calls "the law the fact that there is a question or that we are questioned about what *we ought* to become and what *we ought* to do to become it" (Lyotard, 1990c, 35; emphases added).¹⁰³ We are questioned about the *future* of the normatively constructed "we" *that comes before the law* as a socio-political organization in which others have no presence; they are not represented as a constitutive force of the norm, but as an excess the norm should foreclose in order to circumscribe 'the we.' Yet it is their silent presence amidst us that calls our self-representations into question and obligates to dis-identify with the exclusive norm.

The ethical turn of the political for Lyotard thus gestures in the direction of a break with the norm of autonomy (the norm of *ourselves*), toward an obligation to represent the

¹⁰² The protest is usually dismissed as a minor local event with little political effectiveness, involving a handful of Germans married to Jews who face deportation to concentration camps. "Rather it was a rare case of *Zivilcourage*—the courage of those who act on their convictions when confronting authority" (Lacquer, 2001, x). "The story of intermarried Germans, culminating on Rosenstrasse, is hard to swallow for ordinary Germans since it implies that, had more ordinary Germans not abandoned German Jews socially, many more German Jews could have survived" (Stoltzfus, 1998, 155).

¹⁰³ I am grateful to William McClure for reminding me of the latter point.

unrepresentable in the political world of the 'we.' Lyotard's 'ought' therefore heteronomizes the addressee –obligates one to be *otherwise*–without authorizing the addressor; although "the request emanating from this entity be received as though it were law ... [t]he only sign is that the addressee is obligated" (Lyotard, 1988, 108). In other words, "the obligation in question does not result from an authority previously legitimated by me or by us" (*Ibid.*, 112). The formative force of the normative address is immediate, similar to that of speech-acts (*Ibid.*, 111), in that it "institutes a new universe" where one is constituted as the addressee, and placed as a witness to the emergent authority. The ethical demand, on the other hand, does not found the norm on the presence (of the autonomous subject), but points to the "blindness ... [that] resides in the pretension to found ...what ought to be upon what is" (*Ibid.*, 108). The 'ought' of the ethical and the testimony to the silence, Lyotard maintains, should not be replaced by the 'must' and the witness of a presence. *In other words, a response could and ought to be responsible because it involves a risk, because any address of authority is unjustified: authority can only be grounded in obligation— a response that performatively constitutes the addressor as an authority.*

Speech occasions an apprehensive relation to others who make a claim to authority and on us as the addressee of the obligation. It calls us to hear others as if their call is the law, though revealing the risk in responding to an unauthorized address responsibly. It invites us to be the ones responding, but in order to be responsible one needs to disavow with the law of responsibility, viz., sovereignty: the sovereign in this context is the one who decides in the face of undecidabilities. And when the norms or others that can guide one through the aporias are wrong, one takes responsibility for a decision, action or speech that cannot be justified from their standpoint. The sovereignty at stake is undecidably (outside) the law one is subjected to. In fact the sovereign is (above) the law it is subjected to when it (un)makes it through sovereignty. Obligation is the effect of the address of the sovereign in its undecidable

character. Although others address us through speech, they say nothing that can obligate us, but stage an almost silent encounter in the order of the ethical that subjectifies us as the addressee. The next section pursues why any authority is almost silent.

3.2. *Silence of Authorities: The Law Does Not Come From 'Us'*

Lyotard distinguishes between the 'must' of a command and the 'ought' of an ethical demand. In Habermas' theory of subjectification, recall that the child *must* submit to the law of the self as s/he is threatened, and a wish-to-live in a political community puts him/her under a debt to agree with the authority that gives the gift of a presence, an autonomous life among the 'we': this is the situation of address informed by discourse as well as *power*. Butler elaborates on subjectification, noting the dependency on the subject and the power of the community: "the 'we' who accept such terms are fundamentally dependent on those terms for 'our' existence" (1997, 2). The subject has no other choice to recognize authority, at least partly, as its addressor and turn toward the law.¹⁰⁴

In fact a wish-to-live is the reason why one *must* turn, constitute oneself through this speech-act as the 'you' in the 'Hey, you!' of the address; the necessity is not of the strategic and calculative order, but *ontological*. In other words, it *has always already happened* so we have become what we would have been: one recognizes oneself as a subject in the act that already constitutes the addressor as the authority. If it subjects one to the norms of an authority one does not authorize responsibly,¹⁰⁵ it also authorizes one's taking part of the power as a recognized member of the sovereign 'we' even when it subjectifies one through subjection and as a subordinated identity.

¹⁰⁴ That the subject turns for Butler is the effect of power that structures the address: "In the infamous example that Althusser offers, a policeman hails a passerby on the street, and the passerby turns and recognizes himself as the one who is hailed. In the exchange by which that recognition is proffered and accepted, interpellation—the discursive production of the social subject—takes place. Significantly, Althusser does not offer a clue as to why that individual turns around, accepting the voice as being addressed to him or her, and accepting the subordination and normalization effected by that voice" (1999, 4).

¹⁰⁵ One does not have any other choice so one cannot be responsible for the lodging of one's sovereignty in the hands of an authority.

The 'ought' of the ethical demand, on the other hand, obligates without authorizing the addressor or identifying the addressee, and it undermines the fantasy of sovereignty by a scandal of obligation where the self submits to an inscrutable, unjustifiable law of others that makes one *otherwise*. It locates *authority* in authorless authorship of what is *to come*, not in what resides in the present. I shall formulate this address as (de)subjectification — although it takes place in the setting of speech, it is received as an almost silent call.

3.2.1. *The Unjustifiable 'Ought': Scandal of Authority*

Why silence, and where does language come into the picture as a normative proof of the presence? The answer revolves around the way in which the ethical demand is perverted into a norm through the mediation of speech that privileges knowledge of the presence—the law in the epistemologic sense of the term. Cognition entails the reduction of the 'ought' to the 'must' through a set of self-justifying normative constraints effectuated by discursive practices, since the linguistic "norm is what turns a prescription into a law" (Lyotard, 142, 1988). Yet the address can only give rise to a 'must' if shored up by the authority of those present, or reduced to rules, principles and self-grounding norms that stabilize identities of the 'we.' But, since no description of the present can justify a representative prescription, Lyotard suggests, no authority is justifiable. The address of the law rather demands *faith* in the 'ought' of a wish-to-say; not asking for justification of the said by present norms of the sayable, as it is the making of a new norm one witnesses, or putting the said to the discursive test of the 'we,' as it may as well be the sayable of the 'we' this wish is addressed to accusingly, but a wish-to-hear that receives it as a silent call one *ought to* respond to.

Lyotard suggests that the law is epistemologically reduced to the application of a concept to an object that presents itself in language, since "[w]hat reality is ... is that object for which intuitions of its concept can be presented" (*Ibid.*, 161). Lyotard first analyses the address of the law as a normative phrase that has a precarious hold on the prescriptive one: in

order to assert the law a normative phrase is linked with a prescriptive phrase by the authority of the addressor: The phrase that "One ought to do A" is authorized by the phrase N that "By the authority of the law, we decree it to be a norm that P" (Lyotard, 1988, 142). That is elevated to the status of a norm by the authority of the addressor, however, cannot explain why we put ourselves in the place of the addressee. The effectiveness of the norm comes down to the authority of those present at its inauguration. Yet authority cannot be deduced (*Ibid.*), only deferred (to other authorities), infinitely regressed (to authorization itself), or abandoned to a self-legitimizing sovereign (such as God). Our democratic culture opts to defer to the authority of the experts who would rely on knowledge, though Lyotard identifies the groundlessness of authority as "the sign of an incommensurability between the normative phrase and all others" (*Ibid.*).

Lyotard's use of the term does not attest to the irreconcilable paradigm shifts in science. Lyotard rather maintains that it is a challenge to link ethical and political phrases with the elusive facts of the so-called 'natural' sciences in order to justify them. Prescriptive phrases ("One *ought to be* virtuous") cannot be justified by the presence of an object denoted by the term of the phrase ("One is a virtuous person") since they have no referential or truth value (Lyotard, 1988, 48; Silverman, 2002, 63); as addresses of the law, they obligate and can be testified *post facto*, by a subsequent action ('being virtuous') which may justify them with reference to the addressee that witnesses their authority. Yet they may fail to obligate their addressee, in which case even the future presence of their objects cannot objectively present the justice of an *ex post facto* law. Since "[i]t is impossible to deduce a prescription from a description" (Lyotard, 1988, 108), the precarious justifiability of the prescriptive phrases hangs by the testimony of the witness who in turn *ought* to submit themselves to the obligation. "In any case, the explanation requires further phrases," (*Ibid.*) yet no other sentence can justify it in objective terms. The enigmatic law and its prescriptive phrase

instead ask for *faith* in their justifiability. Hence the scandalous crisis of justification, responsibility, and sovereignty.

Incommensurable with the cognitive phrases, thus, the phrases of the law state the rules of formation subject to *political debate* (*Ibid.*, 47; 64). Their justification depends on the force of the argument, the persuasiveness of their proof, their technological effectiveness in forming their objects (*Ibid.*, 41-47) through a set of internally consistent and verifiable representations that follow certain rules.¹⁰⁶ The body of the object is fleshed out by those rules of speech and narration. Although the corpus of those rules is the edifice of law the “rules do not carry within themselves their own legitimation, but are the object of a contract” (*Ibid.*, 10). Again the laws of meaning need “supplementary constraints for statements to be declared admissible” (*Ibid.*, 14), a primary force to effectuate them. Since their “legitimation is the process by which a legislator is authorized to promulgate such a law as a norm” (*Ibid.*, 7), the law needs to be justified by the presence of authorized witnesses, the archive of the ‘we,’ who *take themselves as the addressee authorized to respond*.

Although the law constitutes its witness who would in turn give evidence and political force to its justice, the inaugurative relation of authorization of the ‘we’ by the ‘we,’ i.e., sovereignty, cannot be explained by either; it remains a basic relation of *faith in the authority of the emergent constitutive law to hear it as an obligating call of the ‘we’* that calls itself into political existence. Nothing can “allow one to distinguish the rightful authority from its imposture. Above all, the question ... is that the request emanating from this entity be received as though it were law” (Lyotard, 1988, 108). It is at this point where one cannot tell

¹⁰⁶ Although Lyotard later on opted for a phrasal account of meaning and justification, in his early, language game analyses in *Postmodern Condition*, a narrative “is to be wholly understood in terms of production and transmission of meaning, that is a conceptual instrument of representation” (Readings, 1991, 47). As a rule-regulated structure, a narrative’s function is to objectify a normative figure that embodies the social bond (say, a good citizen, a good capitalist and a good neighbour) and justifies the authority of the narrator. Therefore, “[t]he actual community or nation owes its identity to a shared narrative...[b]ut this account can never be legitimate, according to Lyotard, because any narrative of identity involves inclusions and exclusions” (Williams, 2002, 122).

the rightful authority from the sham. Here speech loses its force, takes on the character of a pure ethical call, made in silence.

At the inauguration address, since authority is another ground zero speech-act ('Thus is our law'), the informative content of speech (description), or *locutionary force of the act of speech* turns out to be irrelevant to the illocutionary force. To put it another way, what is said ('Thou shall') in the act of speech cannot legitimize but *represents* what will have been done: the act is *futural*. The said is not even a commandment, since the authority necessary to get it across as a commandment will have been constituted only if there is a response that apprehends the addressor as an authority. The same point applies to the felicity condition of a command: It cannot ground authority, but depends on it. The act of speech thus has no semantic content, or practical justification. But what is left when the said is taken out of the address? And why does one take the position of the addressed to hear it as an obligating call if one doesn't understand or justify its sense?

3.2.2. *The Ought: Silence and Force of the Sovereign*

When the said is put aside, what remains from the law is not silence if one understands the latter as absence of speech that indicates presence. Rather, what remains is speech conveying something more than speech *silently*, or a demand *less than speakable* enveloped in *silence*. Because the crux of this silent encounter with 'this entity' takes place on the borderline of speech that cannot ground the authority of the calling voice; the speech-act at stake will have grounded the authority of *what will have been present if the call is responded to*. Speech becomes an occasion for the response to take the form of responsibility since it involves the risk and undecidability of a silent call under the shroud of the said, silently responded to.

Responsibility invested in an act of speech (which is, to remember, constitutive of a 'we') turns into an incalculable, silent response to an aporia of address, a situation wrought with undecidabilities. Derrida, reading Zarathustra's wish for a voice of the kings, says that

the sovereign learns to command in silence.¹⁰⁷ The response takes its silent addressor as the sovereign being (outside) the law it is subjected to: the sovereign is not one of the 'we,' although each and all are sovereign. Being (outside) the law, its address can(not) be accounted for by the law. And a response to what is (not) normatively captured would make responsibility that borders on irresponsibility.

The making of the command leaves the addressee in the situation of deciding on the undecidable and taking full responsibility for the possible response to what escapes the present normative schema.¹⁰⁸ The sovereign demands to be constituted and recognized as the sovereign that paradoxically will have the authority to demand it; circularity, self-reference, and reflexivity build up on the aporia. When the addressee responds, if s/he decides to respond, it would constitute a breach of the present law, and a major irresponsibility; however, if there was no response that, too, would be a failure of responsibility when the present law is wrong.

That is because, I argue, the call and the response to obligation goes beyond the present, in wishing to hear more than the sayable, or locating the law, not in what is present, but in what is to emerge and come. The speech-act constitutes the responsibility of what will have become the 'we' in performing the addressee of the law it addresses paradoxically to its *future* self as an other, since before or during the address it—the 'I'—is not present. The blindness of faith here does not consist of being silent witnesses to the inauguration of a groundless law but the doubt, imagination and risk involved in becoming *otherwise*, taking oneself as the 'I' that will have responded to the call. "The blindness is in putting yourself in the place of the other, in saying *I* in his or her place," (*Ibid.*, 109) or forgetfulness that the self is the proverbial other when speech turns into a scandal of sovereignty for those obligated

¹⁰⁷ "[T]he silent voice commands him to command, but command in silence, to become sovereign, to learn how to command, to give orders (*befehlen*), and to learn to command in silence by learning that it is silence, the silent order that commands and leads the world" (Derrida, 2009, 4; First Section).

¹⁰⁸ That this command is no command at all complicates the possible decision further: a command supposedly relies on authority and justification but the silent one of the sovereign eschews the both.

since the sayable says nothing by which an other can obligate us to make the self-rule: a studied forgetfulness is necessary to decide away the undecidabilities but a decision that disregards them cannot be autonomous, self-reflective or sovereign.¹⁰⁹ The law thus does not constitute sovereignty but instates a new universe where the self becomes undecidably the other, the other the self, autonomy heteronomy and authority risky authorship.

Hence the obligation is accepted by what seeks itself outside itself, in the call of an other, beyond the present, and on the margin of speech, always silently obligated by a call. "In doing this," Lyotard continues, "'we' effectuated what 'we' were looking for, a we. In looking for it, this we was looking for itself" (*Ibid.*, 102). And this 'we,' the people put besides themselves by a call or resisting and refusing to hear the call, become not the sovereign subject of the political that like a criminal (*Ibid.*, 107) lays down the indisputable law of the community, but an instance of the subjectifying force of a *differend* where they, at times suspiciously, and at times gullibly, seek words to fill up the groundless discursive space of authority forever by the silent calls of *others*.

From this minimal point of departure, Lyotard hopes to re-circumscribe the *political* in *differends* through a consideration of the failure to receive the call of others silenced by the fantasy of sovereignty as an obligation. In Nazi Germany, the authority of the SS came from a sovereign 'we' mesmerized by the imaginary power of the said, he continues, that only authorized its present self as the addressor of the law. It only recognized the call of the Aryan as the obligation, not wishing-to-hear the call of silent others commanded not to have a presence in the 'we.' It muted the proverbial phrase of the people ("Listen, Israeli!"). It murdered the messengers of the law in the name of the law, attacking the time of the people and attempting to freeze it in the sayable of the present (*Ibid.*, 105-106). It *wronged* the future

¹⁰⁹ For the sovereignty to be possible, one must decide independently from others, but others in the democratic theory are the possibility condition of the self's sovereignty; to decide independently from them is their eradication, the loss of democracy and sovereignty.

of the sovereign 'we' through the law of the sovereign self as if it could stop the time of the people.

The *differend* thus presumes a wrong, but how can one testify to the untestifiable *differend*? How can one assert that an unrepresentable wrong has been committed if one cannot present norms, or the law in light of which it is a wrong? First, that the law cannot be grasped by cognition does not rule out other means by which its force manifests itself. Transformed into an enigmatic call that wordlessly urges one to act, the law is encountered, Lyotard avers, in "the silent feeling that signals a *differend* remains to be listened to" (Lyotard, 1988, 171). And as the next chapter elaborates, this silence emanates from the singularity of the matter, i.e., the material of the community, and the bodily presence of those silenced and wronged by the law of the said.

Lyotard's account of wrong (*tort*) should thus be read in light of the *differend* which, as opposed to a mere conflict between the formally equivalent elements, reveals the groundlessness of legitimacy and paradoxical character of sovereignty that refuses to receive the call of others—that give the gift of autonomy and sovereignty—as the obligation. Since the main aim of the Third Reich was to eradicate the presence of the inassimilable difference in the Aryan lifeworld, the singularity of the event as a confrontation with the (un)representable, therefore, "would be a case of conflict, between (at least) two parties, that cannot be equitably resolved for lack of a rule of judgement applicable to both arguments" (*Ibid.*, xi).¹¹⁰ In the next section I shall dissect the elements of the conflict that takes place within the phrase which Lyotard likens to a performative utterance.

3.3. *Differend*: 'Il y a.' or 'Wstawać'!

This section frames the paradoxical address of the law through the phrase "You are

Wstawać!," which circumscribes a universe in which no *Wstawać* should exist, and once the

¹¹⁰ In other words, Lyotard commits to (i) the multiplicity of rules of identification (ii) the incommensurability of rules of identification (iii) the contestable validity of a particular rule in that "it obtains for a time the consensus of the community" (Lyotard, 1999, 22).

perlocutionary force of an address takes effect, one does not have a meaningful existence in the phrasal universe the address constructs. "The distinctive feature of... 'performative' utterance is that its effect upon the referent coincides with its enunciation" (Lyotard, 1984a, 9); in other words, the act of speech of sovereignty paradoxically subjectifies an addressee that despite crucial axiom of responsibility in the reception of the law, is unable to respond. Unless it is possible for the addressee to respond with a "No," people are not sovereign in a situation of address. *The phrasal universe of the differend is thus founded by the normative exclusion of its own possibility condition* (an addressee that emerges within capable of response), and the (im)possible object that embodies the norm "sinks into" the totality it was expelled from.¹¹¹ I shall argue that the subjectification of the 'we' is basically a performative act of speech that, when regulated by the fantasy of sovereignty and presentism, silences and renders absent difference that serves as its constitutive norm.

In Lyotard's account, a performative utterance invokes existentially quantifiable terms ('referents') that denote the subject and the object of the phrase. Conventional justice Lyotard takes issue with entails judgment to give each entity in a phrasal universe its due by capturing its presumably "essential" properties with fixed referents, significations and cognitive phrases. On the contrary "[i]n differend, something asks to be put into phrases, and suffers from the *injustice* of not being able instantly to be put into phrases" (Lyotard, 1984b, 7; emphasis added). The redness of a rose indeed is sensed and presented through a multiplicity of phrases which ostensibly show (by pointing a finger), name ("This here now is a rose!"), and describe a rose by denomination ("It is red!") but those diverse representations of a red rose displace and replace its existence and its redness, so that they keep referring to them in its absence (*Ibid.*, 40). In other words, epistemic phrases are used as a substitution for the existence of the rose which in turn justifies their repeated use within the parameters of a

¹¹¹ Levi says "[o]ne cannot sink lower than this ... inconceivable" object (Levi, quoted in Benchouiha, 2006, 128).

genre, though their meaning is suspended in its absence: "Phrasing takes place in the lack of being of that about which there is a phrase" (*Ibid.*, 22).

Lyotard's theory of representation thus holds that, since "[d]escription cannot free itself from denomination, reference cannot be reduced to sense" (*Ibid.*), a phrase conveys the semantic contents of *and* becomes a substitute for the singular presence of the object it constitutes, precisely because "the objects to which they refer must be available for repeated access" (Lyotard, 1984a, 18) even in their absence. As a concept is justifiable if one can present an object that matches it, *the main function of language for Lyotard is to point out, not to give justifiable evidence for, the singular presence of its object in its absence*: "A phrase presents at least one universe ... No matter which regimen it obeys, it entails a There is [*Il y a*]" (Lyotard, 1988, 70).¹¹² The '*Il y a*,' this material presence comes before the law in two senses: it precedes the inauguration of the law, and is addressed by the law. Ontologically, it is the body/the matter as I shall argue in the next chapter, and politically it is the community that has yet to become a 'we': the 'sovereign people' remains a promise, or a threat to itself. Knowledge demands that the 'There is,' the presence of the object be represented within a language that testifies to it, and since once the reference to the object is secured somehow its presence plays no significant role in justification, the substitute (the concept) can be used and judged in its stead.

If the *differend* merely testifies to the (un)representability of the presence, it does so by pointing out the heterogeneity between the phrases of the presence (knowledge) and the phrases of the law (ethics/socio-politics). In this section the space between the two genres gives rise to politics through the heterogeneity between the normative address that aims to constitute the presence as a political community, and the silent demand an excluded presence makes on us. The phrases are thus employed with an eye to the political goals and justified by

¹¹² The alternative translation of "It there has" marks the presence of the *aporoï* within the 'we'; we have the *aporoï* there, right amongst us, right before us.

the presence of those addressed and potentially obligated to respond. But what if an address paradoxically forces the addressee not to respond, but to be silent and absent within the community, like those in the concentration camps of Nazi Germany? The aesthetics of the phrase thus constitutes its undesirable object by constituting a community in which it has no political presence, nevertheless placing it equally under the register of force of law. The object *emerges* (in Latin, *ex-mergere*), rises out of a totality when called forth only to *sink back into* it as its norm of constitution. Demarcated, and separated from its community, the object reveals an emergency in which unification proceeds on the basis of exclusion, which paradoxically foresees the centring of the community around what it bars out. The by-product of this process, the remnant thus included, is also called by Lyotard, 'a waste' (Lyotard, 1990a, 85-93) that exposes the logic of representation.

Lyotard provides an exposition as to how this "waste" is formed on a political terrain, in *Heidegger and the 'jews'* (1990a). Within this context "the jews" of Lyotard symbolize the excess that remains outside the phrasal universe of the agonistic politics. But if it is the excluded 'exception' how does it provide the phrasal universe *its norm*? This section will pursue this question through an enigmatic address that constituted Nazi Germany as a community of the *differend*, and excluded the singularity of "the jews."¹¹³ "The jews" are irreducible to the Jew, and Lyotard's usage leaves no doubt regarding what it does *not* refer to.¹¹⁴ In fact, it simply signifies, without referring to, the phrasal remnant of a political

¹¹³ Lyotard's book is on the difficulties of voicing the unsayable in the case of a trauma that *the Shoah* was, of remembering what is terribly unforgettable, and of representing the event without reducing into a representation (1). Yet he invokes the terrible past in order to intervene into the present debates on the people as a unified, totalized entity concomitant with its representation as 'the people' (21). He opts for a representation that represents the breakdown of the representative structure—in art, literature and politics: "What art can do is bear witness not to the sublime, but to this aporia of art and to its pain. It does not say the unsayable, but says that it cannot say it" (47). Politically, 'the people' is a representation—of the political philosophy that also finds it "necessary to 'exclude,' to conserve, and to reject" (72) in order to arrive a representable totality. Once again, we are led back to Rancière's characterization of democracy as "a way of keeping the people present in their absence" (1995, 93).

¹¹⁴ "[T]he jews," a name that is always plural, in quotation marks, and in lower case ... does not refer "to a nation, nor to a political, philosophical, or religious figure or subject. It is neither a concept nor a representation of any specific people as such" (Carrol, xii in *Heidegger and 'the jews'*).

universe, embodied by the gypsy, the gay, the Jew, the old, the sick and frail, and the Communists in Nazi Germany: however this conceptual slip between the conceptual and the actual problematizes who/what the people signified as 'the jews' were as another aporia. Since they had *nothing in common* that could have identified them as the unaddressable exceptions to the rule imposed by the force of law, it cannot be fair to argue that they were immune to the reductive grasp of the law. They were never banished from the force of law that anticipates its aporia.¹¹⁵ Indeed they were present in their absence, as a silent principle that organized the society and exclusion was thus never achieved. As a norm without cognitive and semantic content except for receptivity to the norm, all that 'the jews' can disclose are the circumstances of sovereignty to which they have been exposed as it attempts to master the socio-political totality. They were in a "'state of total passivity, of total ugliness'" as objects of art (Lyotard, quoting Hegel, in Lyotard, 1990a, 87) when politics is about crafting a community like an object of art. The formation of (im)possible subjects of the political here goes hand in hand with the formation of their community as a whole through *technê*, a technology of power that creates gas chambers, subjectifies, totalizes, forecloses and closes the question of who the people are and ought to be: the political for Lyotard converge with the aesthetical in the formation, deformation, creation and eradication of the community, as well as its constituents.

However, although it remains vital to determine who/what "the jews" were in order to judge the political aesthetics of the past, there seems to have been left an unrecognizable remnant that narrates the fierce crisis of judgment and thought. The ugly, abject figure that haunt the unforgettable memories in Levi's *Survival in Auschwitz* [*If This is a Man*, 1986] of "an emaciated man ... on whose face and in whose eyes not a trace of a thought is to be seen," (90) embodies the critical moment when the force of law leaves behind it a faceless

¹¹⁵ See *The First Decree to the Reich Citizenship Law* (in Landau, 2006, 311) or the *Paragraph 175 of German Constitution* (Gellately & Stoltzfus, 213) I discuss this below.

remnant that cannot be gendered, categorized, identified, represented or judged any more. Stripped of statues and vestiges of their former lives, unable to speak or respond, “the jews” were at once marched to the bathhouses to wash former traces off their bodies, examined for unknown reasons by doctors,¹¹⁶ and exposed to the Nazi force of law that “like a constant urge ... demands fulfilment” in enigmatic terms. They were about to be the cruellest object of art. The address that subjectified them into a dumb and numb remnant came in a foreign language, in an unknown phrase that reverberates in Levi’s nightmares: “It is the dawn command of Auschwitz, a foreign word, feared and expected: get up, ‘*Wstawać!*’” (1995, 374). The address does not make sense, signifies a loss of meaning except for the illocutionary force, and so does the nameless phrasal object born out of the senseless command: “they had become insensible to everything”, “impossible to get them to tell their names, much less the date of their birth” (*Ibid.* 95). However, the silent, ghostly, half-dead, insensitive mass of *Musselmänner* does not point towards a pure presence without sense and legality but epitomizes *how one inhabits the domain of a present-oriented language, law and sovereignty*.

Agamben in his *Remnants of Auschwitz* does take into account the possibility of a meaningless but valid law/language.¹¹⁷ Similarly, when the norm paradoxically operates through an exception to itself, it constitutes to a normative space “in which application and norm reveal their separation and a pure force-of-law realizes (that is, applies by ceasing to apply) a norm whose application has been suspended” (Agamben, 2005, 40). In other words, language, law and sovereignty operate through their own suspension where their norms gesture toward their own exclusion that always already takes place in their positing. What Agamben marks as a state of exception is parallel to what I call emergency where the

¹¹⁶ Levi “feel[s] like Oedipus in front of the Sphinx” (*Ibid.*, 105) at that moment.

¹¹⁷ He notes that “[t]he language of testimony is a language that no longer testifies, and that, in not signifying, advances into what is without language” (1999, 39). In the unsayability of an event, in Agamben’s words, “language, in order to bear witness, must give way to a *non-language* in order to show the impossibility of bearing witness” (*Ibid.*; emphasis added).

sovereign need to violate their own law and suspend sovereignty in order to be sovereign. But in my reading of the aporia that also sets down the norm which gives life to the emergent (subjects, objects, and a community of the political), this movement subjectifies.

As for the suspension of the norm of language I shall turn to Lyotard to argue that representation by language refers to the norm, i.e., the represented that escapes full representation precisely because of the implicit performativity at stake: a representation substitutes for the represented it constitutes within language and thus takes as its norm that which it excludes. For Lyotard, a phrase is not a sentence, not a propositional unity of meaning that refers to an arrangement of objects that precedes the moment of uttering. If a phrase is a substitute for the lack of a self-evident object, many phrases linked together according to the rules of their genres create a universe: they demarcate what can be sensed in and through them. As an event, or occurrence that institutionalizes a universe of the subjects, objects, and means of communication amongst them, a phrase brings those instances into a unique relation of sensibility with each other (Lyotard, 1985, 59-85). In a sense, the *differend* reveals the pragmatic performativity of an address where the locutionary force of the phrase¹¹⁸ forces the addressee to create the spatio-temporal arrangement in which the objects referred to by the command exist (McClure, 1999, 20-23).

To illustrate, the command "Close the door!" is taken as a conjunction of two commands, the first of which directly expresses the illocutionary force ("Obey!") in the *differend*-based analysis. This implies that the addressee of the phrase does performatively create, not only the object of the phrase ("the shut door"), but also him/herself as the subject who performs the action (the anonymous "I" who will have shut the door). Again, this is a case of interpellation in the Althusserian sense of the term: the response subjectifies the

¹¹⁸ Austin, 1962, 120. Lyotard interprets the illocutionary effect of the address to be 'winning,' i.e., persuasion of the addressee.

addressee, 'forms' it in what Lyotard calls aesthetic terms.¹¹⁹ If it is felicitous, the object thus formed testifies to the effectiveness of the *force* of the phrase.

Yet just like the address of sovereignty that has no semantic content or justifiability, '*Wstawać!*' subjectifies an addressee in a universe where no irreconcilable difference (in opinion, identity or way of life) should have a presence. '*Wstawać!*' should exist in order not to exist within the phrasal universe. The wrong they suffer cannot be addressed by the law as it is the law of the sovereign that wrongs them. It cannot be verified as it takes place in a political universe where the 'we' is the only authority in presence and representation. It cannot be quite put into words of the sayable either, since the moment they *perform* respond to the address they perform themselves as the '*Wstawać!*'s, muted objects of art, an *Il y a* that there is not, the addressed that can never be the addressor of the law, abject bodies that cannot speak but signify a *differend*.

Yet in their senseless, material existence, Levi tells us, they made a demand on him. "Levi's address suggests, not that the dead are without life or voice, but that despite everything and despite their silence, their claim on him persists. In the absence of voices and faces, they continue 'to say' and 'to show' too much" (Guyer, 2007, 11). Levi, who perhaps lived in the depths of a critical abyss and killed himself (out of despair, or survivors' guilt, or existential exhaustion, or the all: see Hirsch, 1991, 12; Patruno, 1995, 114; Homer, 2001, 256) couldn't get out of his mind the excessive sense of a remnant that haunts its addressee in its brokenness, in a disembodied silence that survives the life of its utterer and becomes the law that rules the life of its witness. "Woe betide whoever fail to grasp the meaning," laments Levi (1986, 38), referring to a demand made by those absent. This demand, I argue, is no other than the 'ought' of the ethical, coming from the silent ones wronged by the 'must' of the sovereign. It comes from beyond the present, and just like the speech of the sovereign, it

¹¹⁹ And the aesthetics of the phrase forms a universe (i) temporally: after a delay, on the contingency of the felicity of the speech-act (ii) spatially: only within the prescribed arrangement of the sensible (that involves "the shut door"), given the success of the speech-act.

arrives as an unauthorized silent address that nevertheless, in saying too much without speaking, bears an authority to be heard as the law of the future community: the *aporoí*, just like the sovereign people, being (outside) the rule, do not justify their demand as Habermas argues but address themselves to a future demanded by the act of speech. Although the drowned could not even speak, their demand sounded more fiercely than '*Wstawać!*,' leaving a mark on the *character* of Levi who has become the hapless witness to the law of the present, and the law of the future. It also left a still bigger mark on the 'we' of Germany, orienting its future to a community of more democratic *character*.

Thus the crucial question underlying the law is: whose address ought we respond to as if it is the law of the authority? And as the speech-act will make us the ones who, in submitting to the authority, will perform themselves as the addressee, who ought the 'we' to be? The political for Lyotard is thus marked by the risky business of responding to a *differend*, but speech has very little to do with the address that represents the 'we' as the sovereign with a stable identity. The address, if reduced to the sayable of the present can only reiterate the past mistakes of the sovereign. It rather ought to address the silence to find words that needed to be put into a phrase, and absent ones in their presence, as the missing norm of the 'we,' that needed to be heard and responded to.

If the address remains beyond the present, then it returns back to the past that has (never) been and unfolds toward a future that will have (never) been. Once the people represents their past as an unjustified, lawless constitution of the law, the *aporoí*'s demand to be recognized as the sovereign people, unjustified by the norms of the present, too, will have been heard and responded to. The aporetic situation of the present thus leads us back to the past in order to constitute the future the way it has (never) been, giving the *aporoí* a chance to respond, as an addressor equal to the 'we' in a future shared life. The address re-enacts the past that has yet to be in the name of the people that have yet to become, and is *futural*.

Conclusion: The Remnant Remains a Call

In Nazi Germany it was the law of the sovereign that wronged 'the jews' and made the case unrepresentable to the jury of the 'we' implicated in and responsible for their *tort* as 'the jews' represented the emergency of inassimilable difference that threatened the authority and stability of the Aryan self. The sovereign being (outside) the law it unjustifiably makes reduced legislation to the self-rule of a unified, totalized archive of identities that foreclosed 'the jews' as a part of the community. It was the paradoxical norm that, emerging from the lifeworld, demarcated from inside what ought (not) to be present among the 'we' of the time. And as the law of the present could only recognize and represent what it constitutes, it constituted 'the jews' as (un)representable markers of the boundaries of the Nazi community where speech and responsibility bordered on silence and irresponsibility; the presence of 'the jews' was not represented by the law of the sovereign people that, nevertheless, constituted itself through their forced absence. Only as the addressees of the law that *must* not respond, or be *responded to*, their demand to live amongst the 'we' as their equal was not authorized, or heard by the sovereign as the law of the future community.

But after six decades 'we' find out the other cannot be muted by the sovereign. The haunting voice in Levi's nightmares turned out to be the call of an emergent authority that shaped the matter of the future German community. It was heard by and responded to by those who disavowed the Nazi 'we,' and was attempted to be incorporated into theories of democracy by the next generation like Habermas.¹²⁰ He explicitly profess to experience this "irritating climate of opposing insinuations and accusations" (*Ibid.*, 130). And the Nazi past rightly gives rise to the anxiety discussed in the previous chapters over the mob, unjustified claims and disagreement that accentuate these accusations; I assume that Habermas' aim in relating democratic politics firmly to the agreement of all is to dispel these accusations and

¹²⁰ For example, he notes the trauma that is still experienced in the politics of Germany that has been through the Nazi past: "The internal political development of the Federal Republic is still under the trauma of the legal transition from the democratic state (Weimar) to the totalitarian Führerregime, that 'order' which was recognizable from the outset as an evil regime" (Habermas, 1985, 129).

anxiety and make sure the past does not repeat itself, but his diagnosis of the emergency is flawed and misleading with its preoccupation with justification. I argue that if 'the jews,' as well as more of the sovereign people of Nazi Germany had had a chance to *disagree* with the Nazi law, the horrible past would have never happened.

The unjustified demand of 'the jews' made the German community's future *otherwise*; after the fall of the Nazi regime, the wrong done to 'the jews' was recognized when the 'we' was exposed to the pile of dead bodies. The accusations were transformed into the accusative mode of address that subjectified the good people of Germany as a more democratic community. The demand of 'the jews' that did not make sense in the past was heard and responded to as if they were the sovereign people that constitute a community, sadly after the wrong, in the future. That was possible because, I argued, the speech-act of authority does not require justification by the present norms, or validation by a referent. It requires risk-taking, envisioning, and the responsibility to take ourselves as the addressee of a silent call, the risk to imaginatively seek words in what does not make sense by the present, and a wish-to-hear that places us under the obligation to an emergent presence that symptomizes an emergency of sovereignty; the emergency of the question of who the sovereign people ought to be—the 'we' or all including 'the jews' that disagree with the law, live, act and speak differently? The messenger of the law may not make sense to the present 'we,' but it does not need to; it can still be sensed to address us, in the feeling of responsibility to our future selves it incites, in the question 'Will you be my addressee and hear me as if I am one of the sovereign people?'.

Not to hear them is wrong; it wrongs us too through accusations. That is why if the wrong is committed by the law of the community both the community and its law need to be re-phrased by *others* outside the community of sense, or outsiders to the norm inside the community like the Rosenstrasse protesters who dis-identified with the German 'we' of their

present. The absence of 'the jews' constituted the matter of Nazi Germany's political community and the raw material for the future Germany, and for the Rosenstrasse protesters a silent call made sense of the injustice done to those not present in their salient absence. Then and there the re-founding force of authority, i.e., mobility of identities that travel between the other and the self, mobilized a mob again to make a claim on the 'we' of the future.

The force of the *differend* thus can only be felt through an aporia that overthrows the distinctions between presence/absence, speech/silence, the self/the other, and the present/the future; also 'the jews'/the 'we' in the community, senseless/meaningful in the phrase, and presence/representation. Why did they feel *forced* to represent the unrepresentable Jews, when they should have been convinced that this was not what 'we' ought to be? Hilda Elkuss, one of the protestors, says, "[i]t was actually this feeling that we belonged there, and had the right to be there that motivated us. It wasn't a law but it was our right" (in Stoltzfus, 1998, 32). The mob was situated over the aporetic line between the lawful and right. The *differend* they were caught within was indicative of absence, loss and suffering under the law of their present and they felt obligated. They *ought* to pay homage, they sensed, to the beloved others that left their mark on their character. If "[t]he wrong is expressed through the silence of feeling, through suffering" (*Ibid.*), then the ethical law excites through citation (of the *differend*), sets emotions into motion that grasp the unfathomable social bond of "belonging there" where they do not according to the law, exactly through the inexplicable character of the 'we' that is called into question. The force did not come from the present law, or the authority of the 'we,' but from the remnants that haunt the present as absence, indicating a sense of separation, wrong, loss, anguish, and a silent pain. A feeling for Lyotard can also be given in the phrasal universe of silence (Hatley, 2002, 80) that inspires ethical response to it, and the pathos the remnants silently incite is that of a *limit set by/to the sayable* beyond which is an other we doubt, recognize, felt obligated by, want to kill, or love, miss and feel

attached to, even when they do not talk, like the silent sovereign that speaks without saying, or the senseless ‘*Wstawać*’ that addresses without speaking: “To doubt that one phrases is still to phrase, one’s silence makes a phrase” (Lyotard, 1988, xi).

Therefore the *differend*, having only the illocutionary force of ‘the ought,’ can cite and address undecidably without referring to the presence of an addressor, but still makes sense to those who have a wish-to-hear the question: *Shall thou be my addressee and find a meaning in my silence?* The promise of democracy lies over the aporetic line between law and right, between deliberation and disagreement, between absence and presence, between freedom from and submission to others. The *differend* are encountered not through meaning conveyed in speech, but as the undecidable sense of the *Il y a* that, neither present nor absent, comes before the law to seek words and representations; we have the *aporoï* right there, where they do not belong, displaced and outside themselves by an urgency. Lyotard elaborates on this ethical sense of emergency by foregrounding it against the possibility condition of language. An object cited but not situated within a phrasal universe, like the ‘we,’ forever re-phrases a political world to come it will belong. It merely embodies a senseless sense available for signification which cannot exhaust it by a myriad of phrases: “Sense is present as absence of signification...” (Lyotard, quoted in Bennington, 1998, 63). The naked sense of an object can thus be defined as its exposure to an infinite labour of interpretation over what it *ought* to be and it is through this unrecognizable, material presence—not unlike the abject bodies of the *Musselmänner*, that the ‘we’ encounters as unauthorized, unidentifiable others making a silent demand on us. The next chapter explores the naked matter of the community, the material of the law, the meaningless sense.

Chapter 4. The Visible and the Audible: Justice in the Community of Sense

In the last chapter, I argued that the community of speech has yet to establish its conditions of audibility (who will be heard and responded to as if its call is the law) and visibility (who will be sensed and represented as belonging to the 'we'). The conceptualization of the public as a sphere where certain demands are authorized and heard as valid predicates material conditions of a shared life on *sensibility*. Butler argues that "[t]he public sphere is constituted in part by what cannot be said and what cannot be shown" (2004, xvii). The implications of her remark go beyond an insistence on the privatization of the political, or bringing the inequalities, violence and injustices of the lifeworld into the political agenda. The issue rather comes down to the constitution, limitation, maintenance and regulation of what is presupposed as *properly* political. The solidaristic understanding of politics in its preoccupation with unity, universality, agreement and justification conceals "[t]he limits of the sayable, the limits of what can appear, circumscribe the domain in which political speech operates and certain kinds of subjects appear as viable actors" (*Ibid.*). The concealment of the constitution of the political sphere thus excludes disagreement, interruptive acts and speeches, breaks and ruptures within the structure and deprives them of *political relevance and efficiency*.¹²¹

As opposed to the exclusionary construction of the unified community with concealed limits, what comes before us in this chapter is a "community imperceptible to the community" (Lyotard, 1992, 3) since it still seeks itself outside the confines of present limits to the visible and the audible, in the absence and silence of those that will have re-constituted it if they are seen, heard, and responded to. "These confines were called Aesthetics," (*Ibid.*) as they bring together what can be sensed and formed through imagination in an attempt to commune with "something 'uncommon,' out of the ordinary ...something singular" (*Ibid.*, 3)

¹²¹ These acts of speech are reduced to troubling nonsense and silenced. Their subjects are dismissed as disturbing marginal radicals. And the political value of agonism in the face of systematic injustice, inequality and violence is lost to the wider community that, in a refusal to hear their demands, risks perpetuation of them.

that escapes the unifying grasp of the norms. This 'something' singular but constitutive of commonality is something our present law is unprepared for, has yet no representations or words for; "So a secret common, that is, put aside, separated, secessioned, and as the expression goes in Latin *se-curus*, put out of reach of *cura*, of care, a common with no cares" (*Ibid.*, 10). In other words, this community of sensibility seeks its material norm, not in the justifiable by the present but what is insensible at the present, in the call to justice of those put aside from the 'we,' uncared for in their private life and unrecognized in their separation, unrepresented, silenced, and not responded to in a shared life.

Lyotard is usually associated with an aesthetics of the sublime drawn from Kant¹²² Burke, and German Romanticism, that, in a vulgar reading, *must not* be put in words, or represented except through an *absence*.¹²³ The sublime is defined as a situation where imagination proves inadequate to represent, or phrase ideas totally, coherently and systematically into a stable structure that perforce excludes (Lyotard, 1990b, 40-43).¹²⁴ Lyotard's framing of the sublime that explodes the structure open parallels with Derrida's understanding of an institution, or the representative structure that is defined by an opening to the future: "If there are structures, they are possible only on the basis of the fundamental structure which permits totality to open and overflow itself such that it takes on meaning by anticipating a *telos* which here must be understood in its most indeterminate form" (Derrida, 1978, 31).

¹²² Kearney for instance situates Lyotard within theorists of the aesthetic sublime: "As such the sublime tells us nothing about what happens but only that something happened, that an event (*ein Ereignis* in Heidegger's language) took place. It has more to do with the quod than with the quid. The sublime is indeterminate and indeterminable and inspires in us, as Kant and Burke and other theorists from the seventeenth century on argue, the peculiarly contradictory feeling of 'pleasure and pain, joy and anxiety, exaltation and depression'" (2001, 492). Cf. Critique of Judgment, The Analytic of the Sublime, esp. 26, 95 where the sublime is encountered both as a limitation and a sense of freedom and 107-109.

¹²³ It is usually the absence of suitable cognitive categories or concepts that can objectify it, or an understanding that can make sense of it, or imagination that is inadequate to conceptualize its object.

¹²⁴ Lyotard's critique of the sublime also refers to the *frustration of a sovereign subject* that cannot master what comes before the law (as *Il y a*) through knowledge or descriptive phrases; "This employment [of *Il y a*] is an abuse, a violence ... [and] in the sublime feeling thinking becomes impatient, despairing, uninterested" (Lyotard, 1994a, 52). And the subject doesn't consume or give a full account of the encounter with the unrepresentable of the present that, in its undecidable character, rather constantly opens to the future.

In this chapter I shall seek to conceive *the community* both as the totalized, unified and structured representation of the people in their undecidable character and the locus of the singular excluded from the structure; both as a political unity delimited by the law and as ethical engagements that exceed the regulated limits of institutions, structures and representations. The people come *before* the law; their priority over and dissenting presence before the institution of the law as a mob is a demand that they *ought* to be recognized as the sovereign 'we' of which they are not represented as a part.¹²⁵ They are bound by the mutual responsibility in an ethics of demand and response, representing themselves as a community precisely when the representative structure that ought to respond to their demands fails.¹²⁶ I argue that one cannot reduce the issues of recognition and responsibility, like Habermas does, to a simple matter of formal exclusion¹²⁷ that can be redressed when the unrecognized are summoned to an ideal space of discourse where they can be identified and included in the archive of identities that make up the 'we that justifies 'our' law and recuperates the social bond through the new blood recruited.¹²⁸

Therefore the issue spins towards an aporia of a presence that is *sensed* to be absent, silently living among us, but not as one of us to whom we are obligated to respond. The excluded make a demand on us: to be heard and seen as one of us. The self-rule states that the community *must* always be co-present with its representation, but the *aporoï* state that the

¹²⁵ The structure, however, makes a demand on them: that they *must* leave politics to, say, politicians, institutions, and the law. And as I argued in the last chapter, 'the must' is at odds with 'the ought' that comes along with the address that doesn't make sense by the norms of the present. According to the present conception of politics as agreement-oriented discourse, people must not be out on the street, voicing dissent, forming mobs and invoking their constitutional right, in a lawless way, to have a presence in politics.

¹²⁶ Since this required absence functions as a silent norm present in the constitution of the 'we,' it would be an injustice done to Lyotard to argue that he "hold[s] community, and necessity of community, to be founded on a certain absence" (May, 1993, 275) without giving a hint as to how the "we" can ever represent itself as a community of mutual responsibility and ethical bond. The acts observed during the Arab Spring, I argue, turn into acts of speech by which people re-constitute themselves as the sovereign people without sovereignty, the streets as the public sphere, and the demonstrating mob as a community.

¹²⁷ In adjudicating the issues of recognition in Habermas' framework of constitutional democracy, Cooke too argues that "Habermas—despite the merits of his conception—is open to criticism for neither explicitly acknowledging the inevitability of exclusion nor confronting the problems raised thereby" (1997, 259).

¹²⁸ Assimilation into Nazism (presuming it was possible and desirable) would not have saved others that could have become the new 'jews' suffered at the hands of the sovereign since its norm was unification of the 'we' against others, whoever that can fill the position of the latter.

community *ought to* seek its undecidable identity, not in the present, sovereign 'we,' but in those who, being unrepresentable, cannot exercise their sovereignty. The collective identity must be left open-ended in the question of *who should be re-presented, seen and heard as a constitutive part of the 'we'* to come.¹²⁹ 'The common' in the community of sense ought to seek sense outside the normative confines of the presently sensible with an opening to the future.

In this chapter I aim to re-articulate the social bond and the constitution of the community in terms of sensibility; what can be heard as a political demand, who/what can be seen as one of 'us.' What can others' unrecognized presence amidst us tell us about the constitution of the public through normative limitations to our sensibility? If they are 'with' us how can one bear witness to their presence and 'with-ness'? How could the "we" respond if their demand does not make sense and is not heard as a political demand? I shall argue that if the *aporoí* are foreclosed from a shared life by the normative limits, they also witness and mark those limits. Their silent presence is *before* us, before the law, asking for recognition, inclusion, and equality as a part of the community. In my reading, the force of their silent act of speech thus originates from the past, i.e., the law that has already constituted the community; however, there is a temporal gap between the futural 'ought' of justice and the presentist 'must' that will have been closed once the political catches up with the ethical. The Constitution has not been realized and will not be realized until they are heard and constituted as people equal to the 'we.'

In other words, the norm of the socio-political does not exclude the presence of those who witness the force of the law, but aporetically includes them as the witnesses to the *before*. They have already been constituted *before* by the law as silent parts of the 'we'; what is at stake is *foreclosure*, not exclusion. The foreclosed signify the past that silences and

¹²⁹ Likewise the social bond should be re-constructed as a responsibility to what could come before us, into our field of visibility and ear shot, if our law does not silence their call and efface their face.

makes absent. Silence as testimony to *being-there* does not simply break with language, but phrases the obligation of the ethical that should not be conflated with the political norm that grounds itself in the presence. Although both addresses make sense of what comes before the law, justice requires a sensible response and critical responsibility to the *before*—those not represented as having a sensible presence in the ‘we.’ Recognition of the *aporoï* as equally constitutive takes response and responsibility that will have re-articulated the community and the social bond.

Here I will borrow from Ariella Azoulay another sense of responsibility in order to illustrate some of the implications of reformulating the social bond “as a framework of partnership and solidarity among those who are governed, a framework that is neither constituted nor circumscribed by the sovereign” (Azoulay, 2008, 23). Her work aims to bring the Palestinians living in Israel into the visibility field of Israeli sovereignty, as images that speak out of the frame of the photographs: she interprets them as a testimony to the dominant socio-political relations that do not extend the same rights and obligations to Palestinians as Israeli citizens. Although their addresses are silenced, and their presence unrecognized by the present Israeli law, Azoulay assumes a responsibility in responding to their images and hearing a call for the Israeli community to be otherwise.¹³⁰ For her, their silent visibility that demands not to be ruled in this way is an *exposure to the undecidable character of what is seen, for what is supposedly excluded from the frame seems to seep back into the picture to make an unauthorized demand*: “Even when it seems possible to name correctly in the form of a statement what it shows – ‘This is X’ – it will always turn out that something else can be read in it, some other event can be reconstructed from it, some other player’s presence can be discerned through it, constructing the social relations that allowed its production” (2008, 12).

¹³⁰ “Addressing these photographs is a limited, partial, sometimes imagined attempt to respond to the photographed figure, an attempt to reconstruct the part it played, ..., and to realize, even if fleetingly, a space of political relations between those who are governed, a space in which the demand not to be ruled in this way becomes the basis for every civil negotiation” (Azoulay, 2008, 16).

This chapter thus raises two questions. First, what does it mean to be present in a political community? I shall argue that to be present in a community is *to be exposed, to others, to their addresses, to their presence that recognizes ours*. Second, what are we exposed to when we are in front of those present but not recognized in our community? In my reading we are exposed to the law and its demand as the 'ought.' Lyotard gives it several names: the body characterized as the exposure to the law that demands a response; the mute Thing that "reveals its deafness, its silence, in demanding that you show it" (Lyotard, 1999, 30), the *Il y a* that calls us to lend it words. In all cases our speech, or language in general, hints at an enigma on the threshold of presence which makes a demand on us to be recognized and represented. The demand of the Thing is none other than the obligation the *differend* places on us; that 'we' ought to make sense of a senseless figure that comes before the law through justice that goes beyond the law.

Here my framing of the unsayable departs towards justice, to what comes before our law as the material embodiment of a silent call. In the first section I will give an account of Lyotard's understanding of having a presence in a community as *exposure* in spatio-temporality, i.e., within sensibility. The following section reformulates justice as testimony to the sensible force of law, as an exposure to the illocutionary force of the address that forms the matter of the community: who will be heard as if their call is the law, and who will be seen as one of us. Thus, I will argue that one's material presence testifies to the effects of the law that sets up the terms of sensibility; i.e., visibility and audibility. The formation of sensibility coincides with the constitution of a community of sense where our responsiveness is *restricted* to others that make sense to us, justifying their meaningful address by the norms of the present; those the law represents as having a sensible presence in the 'we.' And this is the 'we' that testifies to and justifies the law that constitute them, by their presence and agreement.

However, the closed circuit of sensibility can be broken by an ethico-poetical *attentiveness* to the insensible at the heart of the sensible. In the third section I shall argue that the law that subjectifies one is *meaningless*, but *materially sensible*; its effects can be sensed in the traces it leaves on one's body asked to respond to the address, and more importantly, the body, as the material conditions of *affectability*, is that which *passively* comes before the law that does not necessarily have a discursive meaning, but can affect it. The bodily sensation of being exposed testifies to the effectiveness of the address, the meaningless illocutionary force that brings about the action *passively performed by the body* that follows the address if it is heard as an *obligation* to do so. Therefore our affectability by and submissiveness (i.e., passive responsiveness) to others not under the protection of the recognition by the law, and the rights-obligations system that aims to make sure one is heard, is constitutive of ethical responsibility in a community of sense.¹³¹

The effect of the act of speech is subjectification by its force.¹³² The passivity of the act of turning towards the law also applies to sensibility—one hears the call *passively*. One may wish or pretend that one didn't hear it but nevertheless one can have no mastery over what one hears or sees. Being exposed to the presence, troubled survival and suffering of others, too, is something one can have no control over as the sovereign. Once exposed, what can be seen is seen. When we are exposed to the plight of others who make a demand on us, it also constitutes us as their addressee regardless of what we wish. Responding to them is constitutive of the community of sense in ethical terms while ignoring them unbinds the social bond.

¹³¹ One of the implications of a community is relationality, the social bond between those who are related to each other by the system of rights and duties. Those in a community are bound by demands and obligations placed on their addressees who are in turn *passively affected* by them when they take up responsibility. Responding to their demands is a part and parcel of responsibility. Therefore who we are responsible to determines the extent of our community.

¹³² In the Althusserian scene of interpellation, when one is hailed by authority and becomes a subject, one's body turns around passively to the addressor in the anticipation of a promise or a threat; the authority can always have recourse to bodily sanctions, hurt, incarcerate, punish and kill.

What Lyotard calls “passibility” is irreducible to totally passive, heteronomous submission to the insensible, but also an active endeavour of doing justice to that which comes before us in its secret, meaningless, undecidable character; by seeking words in its silence, finding meaning in its invisibility that would indicate a presence to come—in other words a poetic activity that engages with the undecidable since one can never make sure one’s response is just or responsible (*Ibid.*, 27). As it is an attempt to hear through silence or see through a frame put in place by the law that makes us what ‘we’ are, its mystery may not be solved until a new community of sense comes. And as I argued in the last chapter the call of obligation *ought to* be heard as a disarming, dis-identifying address that through its disorienting force throws the undecidable matter back into our face: *Who ought we to be?* The question central to the political is thus futural. And in question is the future of the community that at the present suffers unjust limits to it. In this chapter I will re-formulate these limits as constraints placed on the public, on the sensibility that conditions the audibility of troubling demands and the visibility of the *aporoï* that come *before* ‘us.’

4.1. *Response to the Insensible Before Us: Ethics*

In this section I will illustrate how Lyotard explores this *before* as the (un)representable presence of the body *before* it was exposed to the prescription of the norm:

...To be aesthetically is to be ... exposed in the space-time, and in the space-time of something that affects before all concepts and even representations. This before, obviously, we do not know...like birth and infancy, there before we are. The *there* at stake is the body.
(Lyotard, 1991, 241: my translation)

This *before*, analogous to the *differend* to which no presence can testify to, comes before the norm. It is an *exposure*; of the body alien to the address of the law that will have subjectified it in an anticipation of having an effect on it. The body in Lyotard is a particular phrasal object within which the alienness of the *before* resides (Lyotard, 1999, 29). The remnant comes *before* being addressed as an autonomous subject, but every address “presupposes in the addressee a passibility, a *patheia*, an ability to be affected, a metamorphic ability”

(Lyotard, 1988, 21). It is through this passive ability that one is affected by an address, and receives it as exposure to others one feels one *ought to respond to*.

Lyotard's neology is another attempt to register the force of the address that makes use of receptivity to the locutionary force of the speech-act that forms one as one of 'us'; the receptivity to 'the must/the ought' here is reconfigured as the affectability of what will have become the embodied addressee that will achieve language, identity, a place in the community by receiving the norm. Yet subjectification or emergence of an addressee takes place as an emergency in which the latter (for whom the address does not make sense) can nevertheless sense its effects. Anthropologically, because of its lack of preparation, the infant obeys enigmatic commands without understanding, silently, relying on an uncommunicable sensibility. And "affectability is a condition of non-intentional, heteronomous and more or less vulnerable openness to the surrounding world. Affectability implies vulnerability because the body may be overwhelmed by what affects it" (Vasterling, 2003, 214). The addresses of the law in general need affectability in order to be enacted as norms.

4.1.1. *Response to the Undecidable: Responsibility for the Past*

Here I will turn to Levinas in order to fully explain the subjectifying force of exposure to what there is. For Levinas "[t]he there is, inasmuch as it resists a personal form, is 'being in general' (1947, 48) which is not an object, subject, or predicate but an almost nothingness that nevertheless *is* in its undecidability. The 'there' of the 'there is' discloses existence unencumbered with engagement with daily things, objects and existents of ontology.¹³³ The 'there' is exposure to being as such that whatever is finds itself affected with it and needs to respond (*Ibid.*, 63); the act of response turns the exposure and the sensibility of the exposed into an event that the body is (*Ibid.*). In ethical terms the event of being is staged through the

¹³³ It affects the same way as the sublime object of imagination that resists representation into an object in Kant's *Critique of Judgment*.

encounter between the self and other: the self is exposed to the *excessive* being of the other that affects it and demands a response which would be basis of the self's responsibility.¹³⁴

A response is thus given to the situation the self senses itself *to be* within. And it is given to the before of that which it is exposed to; the subject of sensibility thus finds itself outside itself, within the spatio-temporality that affect and rules its sensations or in the difference of other that demands a response in language. The respond to the call of the other at the meeting confers responsibility to the self that manifests the radical passivity to affection; it interpellates the subject and one is subjectified before one responds (Levinas, 1979, 66; 183; 1991, 142). The affect is communicated since the address has an excessive force. It is both threatening and promising as the debate between Habermas and Mead illustrated; it can have an overwhelming impact on bodily sensibility—it can punish, hurt, incarcerate or kill, or give recognition, a socio-political presence and a place in a shared life through the force of law. Being before the law or others from whom we receive the law is thus excessive.¹³⁵ Being before both subjectifies and displaces the subject, putting it besides itself through awe, apprehension and anxiety over what it is before.

The elusive *before* places an emphasis on having already been able to be addressed in either case, and not on being the addressor of the law; the *addressability* of the addressee as a subject always already achieved by this primary exposure (the body) affirms the futurity inherent in the address that demands a response. And the ethical necessity to respond to a

¹³⁴ The relation between the self and other that interrupts it through affectability is mediated through language that reveals the self's dependence on and affectability by other (Levinas, 1993, 39). However in the exposure of the self to other, as "a dialogue that causes one to 'enter into dialogue'" (Levinas, 1993, 16), the illocutionary force stems from the affection that the speech brings into existence by revealing the passivity. That radical dependency on the other that "leads man to the heart of his being—which is not entirely his" (*Ibid.*, 20) precedes the dialogue and subjectifies the parties to it: subjectivity is subjection and answerability to the force of other that displaces the self which has always already occurred.

¹³⁵ For Santner when the encounter that overwhelms makes a demand on us, "a trauma is generated by a too much of address, by an excess immanent to an address that resists metabolization, that is symbolically 'indigestible'" (2001, 32). If the excessiveness of the address, he elaborates, "persists beyond what can be translated into a demand for work, a task to be discharged, something we can do (or, for that matter, refuse to do, feel guilty for not doing, and so on)." (*Ibid.*) the addressee's vulnerability to and frustration over the enigmatic remainder of the address work against their sovereignty it may even purport to install; as in the primary address of the law that subjectifies an autonomous individual through threats to the bodily integrity.

present/presence that, although other and enigmatic, is able to affect a response from us as if it was a part of the self that, through the control over the body, affects itself. This should not be conceived as a mystic ability, but as persuasion through affecting. While Habermas presumed an *active moral* capacity for mutual understanding between the self and the generalized other that follow the same rules of meaning, Lyotard suggests that we have a *passive ethical* capacity for affectability by others even when all that can be sensed is *absence of meaning*. While the voice of the law in Habermas' philosophy says 'Thou must give me a valid response' in order to be fully responsible, the cryptic addressor in Lyotard's says 'Thou ought to hear me,' but one can never be fully responsible for one's response to the meaningless; one is instead responsive to *what comes before* and responsible to *what will come next* as the futurity of the address implies. Here the act of speech does not ask one to reiterate its present happiness conditions, or the law of the past that makes one autonomous, but it seeks a new norm in the *present perfect future* sense of what demands a response without decidable meaning, grammar or informative content; "You hear the voice without hearing it, you do not understand it, it does not say anything articulate" (Lyotard, 1999, 26) but 'you ought to listen, and find words in my silence.' Here one wishes *that it will have already made sense if one responds to it*. The futurity lies in the enigmatic order of temporality outside itself, in the time out of joint.

Having been born into a political community with norms already in force, given an identity, or confronting the present always already organized by the grammar of our mother language imply that the present comes too late, its presence only representable through the authority of the *before*, as a reiteration of the lawful, or the forceful homogenization of the homogenous as Derrida puts it.¹³⁶ The primary operation of the law, according to Derrida, is

¹³⁶ "...the monolingualism of the other would be that sovereignty, that law originating from elsewhere, certainly, but also primarily the very language of the Law... The monolingualism imposed by the other operates by relying upon that foundation, here, through a sovereignty whose essence is always colonial,

assimilation of others into the sovereign people, acts of speech into the past structures of signification, and difference into homogeneity. The law achieves the reduction of these into calculable, repetitive structures of the tradition through hegemony, i.e. an unjustifiable force of the past that re-asserts itself in the language of the law(ful). The rule-governed structures of the past have always already been forced on the incalculable and the unforeseen of the future, by relying on the imagined foundation that is the before; the imagined past where people have been constituted as the sovereign people, the initial encounter with the significant others, the first contact between the self and the conditions of sensibility that has always already been shaped through signification and communication of the rule. More importantly, the sovereign signification of the rule overwrites any concerns of difference, creativity, change, transformation and novelty, in a mechanical repetition of the language of the law(ful).

In Lyotard's reading of Kafka's *Penal Colony*, the phrases to be inscribed on the body of the guilty were fed to the machine of the law *before*: "The machine runs blindly" Lyotard explains, "... because it can only read the prescriptions inscribed in the language of the former" law (Lyotard, 1991, 240; translation mine). Our responses achieve meaning as long as they sustain the originary faith in a self-evident presence that comes before language, just as a self-authorized 'we' of the constitution already ensured the legitimacy of our norms. This presence, however, does not justify the grammar that conceals its silence, or the norms of the 'we' that do not authorize the phrasing of the *differend*. Our presence is rather sustained by our responsiveness to others that *have already sensed, confirmed, recognized and represented us as their addressee since our constitution*.

which tends, repressively, to reduce language to the One, that is, to the hegemony of the homogenous..." (Derrida, 1996b, 39-40).

4.1.2. *Response to the Undecidable: Responsibility for the Future*

Responsiveness is not contingent on the addressee's ability to recognize others as lawful addressors, or as authorities that demand and deserve a valid response. The undecidable character of the authority here is reformulated, though in its sensible mode, where the illocutionary force of its meaningless address is *sensed* (in bodily terms) even when it is not at present recognized in a valid representation. And our sense of emergency takes a hold on us because it gives rise to an ethical demand for us to respond to the insensible sensibly. Yet a responsible response to the (un)representability of what emerges and comes before the law, takes doing justice to its *undecidable character*. In this section I shall argue that when the law is wrong a just response to others who exceed our sphere of belonging is irresponsibility. When we turn down the call of the law, however, we take responsibility for a future community, expanded and unified by our response to others.

In political terms, we rely on the same passibility as a wish-to-hear in our exposure to those not recognized by norms as one of us. For example, when an Israeli soldier hears an outcry in Arabic, the demand does not have a meaning that can obligate her/him, but it makes sense to those who refuse to serve to the Israeli law whom we may name *refuseniks*. They do not wish to take part in a crime, they say, committed by the law from *the Israeli before* that threw them into a shared life established on the conditions of a silenced, invisible part of the 'we.' In a letter signed by the commandos of the Israeli Army in December, 2003, the refuseniks said: "We shall no longer corrupt our moral character...no longer deny our responsibility as soldiers of the Israeli DEFENSE force."¹³⁷ Here responsibility is taken in relation with the concept of 'ethical character'¹³⁸ and the characterization of soldiers responsible for constitution and maintenance of a community that undecidably includes those

¹³⁷ http://www.seruv.org.il/English/news_item.asp?msgid=85.

¹³⁸ In Habermas' terms a 'character' impedes universalization and unity with the people. Here however the ethical character of refuseniks expands the ethical community and enables identification with the Palestinians who are not seen to be a part of the Israeli community.

they fight: in defending 'the community,' these soldiers of ethical character re-articulate and defend the *aporoï* as one of them, a part of the 'we' inherited from before. Their (ir)responsible response to the situation and demand was overthrowing their responsibility as the soldiers of the Israeli law of the past they were not responsible for, finding their future norm in a call with *undecidable character* they respond to.

More importantly, they face their addressor just like they did the addressor from '*the before*,' again wrapped in the undecidability of a figure that can be the law-giver that would give the gift of a just life, or the enemy that would hurt and kill them: they re-iterate the forming conditions of the community and arrive at a different definition that refuses hegemony or forceful assimilation. They also re-interpret the law of the community, the conditions of its sensibility and sense. 'The Arab' thus arrives into the visibility field as a silent voice that may affect; and as a vulnerable body that can kill or offer a responsible life—an unrecognizable presence that may go beyond or reify the representation of the Arab as the enemy by the law. One of the refuseniks, Noam Gur emphasizes that the people of Israel "don't really know what's going on in [the West Bank and Gaza Strip]. The only way they will see Palestinians for the first time will be once they will be soldiers."¹³⁹ And seeing the invisible, being witness to its silence dis-identifies some of them with the present 'we' of Israel whose ethos, i.e., moral character, seeks to re-assert itself through ethics of responsibility that demands a just response to what comes before it in the figure of the unrecognized Arabs.

Therefore the community of sense is tasked with justice in the sense of bearing a sensible testimony to the insensible presence of those among us. It *ought to* call into question *the before* when only some were constituted as present among us, and represented as rightful addressors we must respond to. The community of sense is activated by a wish to re-enact

¹³⁹ <http://www.electroicintifada.net/content/I-cant-take-part-these-crimes-israeli-refusenik-interviewed/11057>

this before to see them, receive and respond to their meaningless call as the law that may make a new 'we.' Making use of the same passive responsiveness to the law from *the before* that constituted the present 'we' as a representation both vulnerable and threatening, analogous to the body in its exposedness, this community is overwhelmed by the ethical demand to make sense of the insensible embodied by the unrecognized visibility of the enemy that will have become the law-giver if they do. I argue that this was and still is the ethico-political moment in the constitution of community where responsibility is predicated on a risky response.

The task of justice is not so much a passive testimony to the present we are exposed to, or the silent presence of the unrepresentable ones, as an active engagement with the future constitution of the 'we': it takes under its register the undecidability of the figure of authority that cannot be seen, and undecidability of the call that cannot be heard at the present, but does so only to re-present it in the light of new words, new laws, new identities and a new shared life peopled with a new 'we.' It is a *creative engagement*, a poetic action that seeks words in the silence and figures of authority in the invisible. The next section will attempt to formulate justice as testimony to the "before" that one is asked to respond to. The sections following it will then relate an ethics of response to a poetics of *irresponsibility and indifference to the demand of the law*.

4.2. *Justice to the before: Testimony*

Here I am still pursuing the exact definition of 'Il y a' in Lyotard. I shall examine the enigmatic address of the law and responsibility of being witness to its force. I will argue that the disorienting effects of being before the law are traceable to the bodily signs that bear testimony to the undecidable before. This may be illustrated by the following example. One of the last Nazi war criminals that live today, John Demjanjuk, was tried and sentenced to

five years on May 12, 2011, for being instrumental to the death of 20, 680 Jews at the concentration camp named Sobibór. But with the sudden death of the last witness, no evidence of any crime he was alleged to have committed had been presented to the German court by the prosecution, except for an SS identity card, the authenticity of which was later questioned by an FBI report. The exact nature of his crime was not quite spelled out by the argument of the prosecution that led to the verdict, either, and the final judgment was rather grounded in “his presence at Sobibór [which] is enough to charge him with being an accessory to murder.”¹⁴⁰ The *unorthodox* justification of the verdict¹⁴¹ was matched by an equally cryptic statement made by a Holocaust survivor from Sobibór, Jules Schelvis, who said “[j]ustice must be done and be seen to be done, the sentence is almost irrelevant,” (*Ibid.*) as the trial opened.

The “almost irrelevance” of the sentence seems to belie the fact that the unique meaning of the crime, as well as responsibility, remains to be revealed by the last sentence in our stories. Contra Levi who believed that “the Nazi concentration camp still remains an *unicum* [unique mystery], both in its extent and its quality,” (1986, 21) we are quick to get exasperated by mystery stories that keep us waiting at the doors of courts of justice. Perhaps not too many people would mind the technical questions regarding the justification of the almost meaningless sentence, or the questionable application of the law that, in its inventiveness, becomes more and more inexplicable with reference to the procedures of the past it itself established. The question of whether Demjanjuk was *really responsible* aside, since no one almost seems interested in an “almost irrelevant” question, what matters most to the juridical pathos of our age was not the haphazardness of procedural justice, but his involvement in a crime, *sensu stricto*, we know nothing about, evidenced by his hapless

¹⁴⁰ <http://www.guardian.co.uk/world/2011/may/12/john-demjanjuk-guilty-nazi-war-crimes>

¹⁴¹ It was a first in the legal history of Germany, not so unlike an act of speech that (un)makes the norm.

presence in what Levi describes as a site of mystery. I argue that one can understand the presence before the law better through an investigation of bodily traces.

The sentence given by the court, according to Schelvis who had made his statement before the court convened, would have had almost no bearing to justice had it not been “seen to be done.” The word ‘just’ originally meant ‘*juste*,’ viz., “righteous before God” in Latin, and through secularization came to signify a person “rightful before judge and witnesses.” Just as Demjanjuk’s past presence at Sobibór legitimized the judgment that he is guilty before the enigmatic law, Schelvis and other survivors were present at the court to bear witness to the fact that the judgment was just. Ironically Demjanjuk allegedly acted as “accessory,” his body a *petty object of the law* that supplements the judgment that appeared in the garment of the just. His bodily presence at Sobibór was also the *instrument* of another law tried and judged, a darker sort that took hold of an entire continent: his body bore *testimony* to a “madness which is shared by all of those Germans who form part of the Third Reich, in effect the whole German nation” (Kelly, 2005, 80).

4.2.1. *Testimony to the Enigmatic Force of the Law: Exposure*

My interest in Demjanjuk’s case is to illustrate subjectification as a material process. The operations of the law are traceable to its sensible effects that witness its force. The force used on the body has an undecidable character. The address subjectifies the body as *somebody*, its force leaving on it individualizing marks. Demjanjuk’s case thus demonstrates *how the law constitutes the subject*. The operations of the law identify and subjectify the addressee—as a lawful citizen, a criminal, or as an undecidable figure that becomes criminal by following the law. Critical to my argument is the multiplicity and temporality to the law; there are many instances of the law and numerous demands on us, various norms we are exposed to and many traces on us that testify, mostly in contradictory terms, to these encounters and

struggles of *power*. The Nazi law, too, had a force which turned against itself and against the people who justified its being in force; the people it turned against all bore the marks of an encounter with a law 'undesirable' to the S.S.. The force of the Gestapo was the force of law but it was nevertheless a force that banalized and concealed irrationality, criminalized lawfulness, and as Arendt's term of 'banality of evil' implied, popularized violence and injustice. The Nazi law enforced invisibility on these traces and the subjects that carried them.¹⁴² As opposed to the concealed-ness of the wrong, I argue, justice is unconcealment, the visibility of the effects of the law in public, on our bodies, and right before us.¹⁴³

Demjanjuk's case also seems to impose on us a few disconcerting questions; regarding the aporetic character of the law as crime and responsibility that at times should give way to irresponsibility, the role of witness in legal procedure as bodily presence, and the demand for justice to which judgment has *almost* no relevance. The law seems unconcerned with ascertaining and re-presenting the facts that would legitimize the judgment on the represented; although we all agree on Demjanjuk's guilt and responsibility, we have little insight as to what comprises the nature of his crime, or how his bodily existence at Sobibór can settle it as an indubitable fact. The unprecedented recourse to his guard duty at the camp, as if the responsibility given by the Nazi law that once addressed him contaminated his body irrevocably so that it still shows the unmistakable signs of a savage Nazi, was not justified by prior court decisions that would have considered the evidence merely circumstantial. If the law is fickle and innovative in legitimization of its judgment, one can hardly anticipate the

¹⁴² Arendt's conviction that Nazism was a crime committed under the permission of the law rests on the fact that the Nazis were "very busy destroying the evidence of their crimes during the last months of the war" (1964, 276). That the law diligently sought to cover its visible effects, for me too, makes clear that there was a wrong committed by it, established by the pile of dead bodies.

¹⁴³ The individuals such as Eichmann, on the other hand, were complicit in the crime of the law they were subjected to when they acted lawfully but I argue that the guilt nevertheless lies with the law they had no legal options to respond with a 'No.' The aporia of the law is such that we wish that Eichmann had always already violated the law and the aporia of justice is such that we wish *there* had already been no wrongs and no deaths of thousands (by the prescription of the law) that no judgment on Eichmann could bring back. That is why Schelvis rightly thinks judgment is almost irrelevant when it cannot take back the horrible past.

sentence, unable to act on an expectation of what the law demands; it may for instance demand something ungrammatical and queer regarding the past, that *one should not have exposed his body to the wrong kind of law*, responding to the call of a murderous authority, having a presence in the wrong 'we' at the wrong time.

The point is the multiplicity and temporality to the law; what was permissible and demanded by the law in the past and in Nazi Germany is punishable by the law at the present. When the law is wrong and *there* is no higher authority to turn to, one needs to decide on the undecidable—break the law which is wrong and be punished as breaking the law is always wrong, or follow the law and do wrong. The decision as Demjanjuk's case illustrates, however, transgresses and digresses in time; he was tried by the present law (of others) for possibly following the past law (of the Nazi Germany's self).¹⁴⁴

On the other hand, the instability and inscrutability of the law opens onto the contestability of the legitimization of the judgment at stake, which finds its expression in a symbolic remnant Demjanjuk still bears on his visible figure, implicating him in an unknown crime. The disputable double ethical entailment in "He was there; therefore he must have been involved: therefore he is guilty" only implies that he was present there, most likely witnessing atrocities, if not committing them. The accusation takes a different course now, directed at the only thing proved, that is, his cruel testimony to a terrible event, which should be settled as a fact via his bodily identity in a continuum. In a former trial held in Israel, the experts on evidence examination represented all the bodily evidences.¹⁴⁵ Following several

¹⁴⁴ On the level of the positive law, the multiplicity of the norms can be observed in the conflicts between the constitution, criminal law, civil law, the counterparts of those in other states, international law, and the U.N. regulations. Since any of these is subject to amendment or annulment, the law is fickle and usually does not apply in retrospective. Demjanjuk's case, however, is an exception in that the possible past obedience to the law in a country is tried by the present law in another country, with an exceptional procedure that cannot be justified by similar cases.

¹⁴⁵ Experts who studied the photograph on the SS card pointed out the matching skull formation, broad zygomatic arches, protrusion of the subject's left ear etc. that indicate a very real possibility that the Nazi face

court sessions,¹⁴⁶ the experts came to the conclusion that all the bodily marks testify to the fact that this is the body of the man who at least was there, at least testifying to the deaths of thousands.

Yet his identification only revealed that he still is who he was without actually making too clear who he was. For all we know, the case is undecidable; he satisfies the necessary condition of being a Nazi (he was present before the Nazi law), though not the sufficient one: he may or may not be the Ivan the Terrible they are after. "It is clear that Demnanjuk was one of Trawniki's roving Ivan the Terribles," concludes Nickell (2005, 50), though we have no idea which one. But as he (his body) shows no signs of contrition, by the implacable logic of presence, if "he is innocent of killing Jews at one camp [that is] because he was killing Jews at another" (*Ibid.*). Once again, we do not really seek truth, or who he was, or what he is guilty of, or not even a proper sentence to give him, but *justice—a justice without stable norms of legitimacy, truth, identity or judgment.*

It seems fair to assert that contemporary justice cannot be phrased in the language of norms, truth, and judgment. In her commentary on the first war crime prosecutions in Australia, especially the Polyukhovitch trial, Ranki protests that "[c]ourts are not concerned with getting fact [and] the law simply does not seek the truth" (1997, 35). In reducing an event where the law was an accomplice to ordinary crime under the jurisdiction of the law, she complains, the Australian legal system in fact writes "a narrative of Holocaust history according to the requirements of what the law can handle" (*Ibid.*, 36). By her account, the story-telling abilities of the lawyers, or the *illocutionary force of their speech*, marked the moment decisive to the verdict in the Polyukhovitch trial, which absolved him of all charges,

on the picture may be his (Nickell, 2005, 40-45). A scar on his back was mentioned, and some eye witnesses were summoned to identify him after seventy years, all of whom confirmed without hesitation that it was him.

¹⁴⁶ They were devoted to the debates on the authenticity of the signature on the card, whether it signifies, verifies or belies Demnanjuk's identity.

in stark contrast to the Demjanjuk case, due to the lack of substantial evidence: "This aspect, the haphazard quality of the law, that the potential outcome of the case depends on the skill of the lawyer, on presentation and quick-wittedness, is (still) a perplexity, ... [and] shows the inability of the law to deal with these non-ordinary crimes" (*Ibid.*, 24). The speech-act of the law feels random because similar cases are not presented within a similar procedure or concluded with a similar judgment; judgment can be swayed by rhetorics, uncanny persuasion, effective presentation, presence of witty witnesses and representation. If judgment is contingent in cases where the law is complicit, the only alternative is not to prosecute, she reasons. As Garland argued, perhaps we cannot make "people guilty of crimes that at the time they did not know were crimes" (quoted in Devan, 1994, 77). To conclude, the address of the law is enigmatic and when the law is wrong, it subjectifies one as a lawful criminal or an outlaw victim. The Nazi law created a surplus subjectification embodied by 'the jews' as well as Nazis: they were (outside) the law they were exposed to, bearing testimony to its enigmatic force.

4.2.2. *Testimony to the Before: Bodily Traces*

In this section I try to give an account of the before as an encounter with multiple laws that left their marks on the body. I will investigate how different identities were constructed and caused a problem for the totalized sensibility of the Nazi presentist law. The holocaust victims were all identified and excluded from the society because they were guilty in the eyes of the Nazi. The gist of the matter is not that murder was never de-criminalized by the Nazi law, but revolves around a more interesting claim made by Ravi, that "Jews were deemed outside of law by Nazi doctrine and legislation" (Ravi, 1977, 28), and thus there was no responsibility.¹⁴⁷ There was no responsibility since 'the jews,' being outside the law like the

¹⁴⁷ That is, their status was the same as the sovereign: Schmitt says the sovereign is (outside) the law. The paradoxical status of 'the jews' makes them the excluded norm of community. They signified both the criminal wretches and the principled constitution of the Nazi community. They were outside the law because they can be

sovereign, were paradoxically not recognized as the sovereign addressors of the law those present in Nazi Germany were to respond to. Outsiders to the law and the community, their wish-to-say was not heard, their suffering not seen, and their plight insensible. And they were not to be responded since they were guilty from the *before*.

Before what? In a sense 'the jews' of Lyotard paid for having been touched a 'first' time before the Nazi law; they had already been addressed *before*, by the Jewish Law, gypsy nomos, a lawless desire that constituted them as the remnant of the Nazi law,¹⁴⁸ and a bodily crisis¹⁴⁹ that expelled them from the community. Just like Demjanjuk, they were guilty of having their bodies exposed to another force of law before that *subjectified* them, being its witnesses and bearing stars that marked them. "This guilt is ontological in a manner of speaking; it is constitutive, such that the law always comes in second in order to sanction and erase this fault" (Lyotard, 1999, 39). And the violence exerted by the Nazi Law aimed to take back the traces of *the before*. 'the jews' were similar to a block of marble, nicked, pitched, and knocked off for the construction of an impossible statue. They became worn-out, mute objects of the law whose bodies testify to the effects of having been addressed before: The Jews, the gay, the sick and frail and the gypsy of Nazi Germany were identified by bodily traces, bloodline, circumcision, rectal cuts etc. (See Landau, 2006, 311; Margalit, 2002, 111; Gellately & Stoltzfus, 2001, 213; and Gellately, 2001, 115). The Communists were identified by their desire, which is always a bodily force. In the Nazi taxonomy of the body, as the figures and cuts on bodies of "the jews" proliferated, so did the forces of law that compete over the passive body submitted to the address of multiple laws that carve their effects on it. Far from being exceptions that provide an escape from the unintermittable address of the law,

killed but on the other hand they expressed the rule that negatively identified the Nazi German: not one of 'the jews.'

¹⁴⁸ The gay desired other men whereas the Communists desired the end of the Nazi law and society. In all cases their desire was seen as the mark that excluded them from the wider society, and given that desire is a bodily force, they were treated as a sickness spreading the heart of healthy Arian society.

¹⁴⁹ Of desire, sickness, and frailness. Their skulls were measured, their blood taken and analysed, the reasons of their sickness discussed. 'the jews' were diagnosed with being different where difference was a matter of life.

'the jews' and the bodily remnants attested to a war amongst several forces operative on them, like phrases crossed over and written over by a thought in its urgency to pass the final verdict on the undecidable.

This *before* does not only refer to a subjectification that went awry from the perspective of the present norms of the main-stream society; it also chimes with what Habermas calls '*character*,' which in Chapter 2 I interpreted as an indelible mark subjectifying a *private other* that hinders internalization of the voice of the generalized other and unification with the 'we.' In the second chapter I explored how in Habermas' thought the address of the law subjectifies with a mark that forms the lawless character. The marks 'the jews' bore on them were sensible effects of their encounters with others in the past that made them what they were. In the 'before' they were addressed by, say, their gypsy mothers, caring rabbis, gay partners, sick strangers, Marxist popular leaders and these addresses had left a trace on them that subjectified them in an agonistic relation to the main-stream norms of their present; they had always already been gypsy, Jew, Communist, gay, sick, and old before they aroused the anxiety of the Nazi authorities who sensed a threat in their excessive presence in the community characterized by the forced hetero-Aryan-liberal-male-young-normativity. They were the *aporoï* representing the inassimable difference, living where they could (not) belong and did (not) survive. Being the inassimable remnant to the Nazi law, they were displaced.

Nazi law aimed for an identity-free political world, like a terrible parody of the Ideal Speech Situation, where everybody will be perfectly alike, agreeable and *not exposed to otherness* that testifies to the possibility of *being otherwise than was decided by the present law*. Thus 'the jews' were confined outside the public, into concentration camps, as if their bodies were infected with the traces from 'the before' and seeing them, talking to them,

sharing a life with them, in sum *being exposed to them* would have spread the infection.¹⁵⁰

Cast outside the Nazi conditions of sensibility, it was this embodiment of the insensible 'before' that the Nazi law refused to recognize, see or hear.

Therefore the Nazi law attempted to remove them from the sensible because their sensible presence testified to its precariousness; in addressing themselves to the 'we,' their character made a call, without the mediation of speech and through the visibility of traces, that there are alternatives to 'the we' jealously guarded by the present law that recognizes only what it constitutes. 'The before' could have happened otherwise. We could have been subjectified otherwise than the Aryan constitution of the people as white, Anglo-Saxon, Christian, preferably male, young, and straight. Underneath the shaky hold of the law that constituted us by sheer luck as *some body* lies the undecidability of *who we really are if we can differ from ourselves*. They testified to an otherwise before and exemplified another way of being present in the society. They were subjectified as a wrong. They embodied another kind of law, other norms, other desires and world views. That is why they were sentenced to invisibility, inaudibility, and insensibility in the society. And if we can respond to their insensible presence among us, and assume responsibility for being what 'we' are, the question will be: *Who ought we to be?*

Justice is responsibility for our constitution, this undecidability that makes us all alike even when obscured by precarious, contingent identities from the before we embody, but also responsiveness to the pile of dead bodies, outside the visibility field of the 'we,' silently voicing a lost chance to be otherwise; I have argued that the effects of the law are sensible, bodily marks and justice is equated with bearing witness to the force of the law in bodily terms. For Butler the body is a "signifying practice within a cultural field" that enables embodiment, or subversion, of an identity (1990, 139) and it is "itself shaped by political

¹⁵⁰ Cf. Butler's *Excitable Speech*, 1997, 110, where she critiques what is meant when the unsayability of homosexuality in military "as a contagious substance, a dangerous fluid" is said to "'communicate' along the lines of a disease."

forces with strategic interests in keeping that body bounded and constituted by the markers” of norms (*Ibid.*, 129). I argued in this section that normative operations embedded in practices of power exercised on the body are multiple and leave sensible traces that testify to them; these operations can be seen to subjectify a body as somebody that signifies a way of being amongst the ‘we’ in its difference and otherness. However, when the body is seen as a threat by its excessiveness, contagiousness, kept ‘bounded,’ piled, concealed behind the walls of concentration camps, made invisible, and the signifying practice –the body’s and bodily traces’ exposure to the public– is foreclosed, it constitutes a wrong; difference, otherness and a way of living otherwise are foreclosed through the normative limitations to the sensibility. I argued that justice demands unconcealment and response: engagement with these limitations, making visible what has been concealed by the normative operations and responding to what is set outside these limitations. For Butler too justice refers to “ethical relations that make us ethically responsive to those who exceed our immediate sphere of belonging to whom we nevertheless belong, regardless of any choice or contract” (2012, 23). Yet if they exceed our sphere of belonging, they are foreclosed through the normative limitations to our sensibility. How could we respond to it if we cannot see, hear and make sense of an insensible presence among us? Responding to them means taking responsibility for a past that constituted them as the foreclosed others. How can this before be re-enacted as the future of the people? The next section aims to answer that question. I will argue that the right response to their senseless presence among us is to ignore the present limits to sensibility and that expanding our sphere of belonging implies irresponsibility towards the law that establishes these limits.

4.3. *Response and Responsibility: Poetics of Carelessness*

In the Introduction to this chapter I mentioned a ‘common with no cares’ and interpreted it along the lines of those uncared for, unrecognized and insensible. I suggested that the Palestinians under the Israeli jurisdiction as well as ‘the jews,’ could be a paradigm of the insensible trouble at the heart of the community of sense whose law does not assume

responsibility to them. Moreover the trouble ‘spreads’ to the Israeli citizens who are exposed, addressed and affected by them and disavow their responsibility ascribed by the Israeli law. Yet it is no wonder that the ethics of response that traces responsibility back to a risky response to the insensible difference of the authority to the impostor leads to the realization that one’s responsibility before the law too may turn out to be a precarious sham. When it is the law that is responsible for the wrong, the responsible response could be a sensible irresponsibility. If response and responsibility are entailed in subjectification, irresponsibility implies dis-identification, being and acting otherwise than what the law of sensibility decrees. In other words, when we act irresponsibly with regard to the law that makes us what we are, we change.

4.3.1. *(Ir)responsibility and Sovereignty: Poetics and Obligation*

Arendt says of Eichmann that he acted terribly responsibly¹⁵¹ but Eichmann’s legal responsibility was wrong and constitutive of an ethical wrong. He considered himself merely a subject to the law on which the sovereignty of the people rested, and not a sovereign subject being (outside) the law.¹⁵² He *ought* to have suspended sovereignty to vindicate sovereignty, being an irresponsible subject before the law that he is (outside of) in order to feel obliged by and respond to ‘the jews’ as if they were the sovereign. He *ought* to have chosen the unchoosable to respond to his situation ethically, not legally. His responsibility before the law and irresponsibility before ‘the jews,’ however, unfolded into the future responsibility for deaths of thousands. He was guilty from the before and he remained guilty in the future.

I shall argue that irresponsibility extends to what comes before the law in its undecidable, insensible character to be constituted as a subject. The sovereign is (excluded

¹⁵¹ That is, she seems to find him responsible for his acts: “Eichmann acted fully within the framework of the kind of judgment required of him: he acted in accordance with the rule, examined the order issued to him for its ‘manifest’ legality, namely regularity; he did not have to fall back upon his ‘conscience’” (1964, 255).

¹⁵² Being before the law he could have been careless: He could have chosen not to respond to the demand of the law, or remained indifferent and decided on an exception to the law, suspended its application, dis-identify with the Nazi ‘we’ and risked legal punishment.

from) the law, (ir)responsive to its demands when it is wrong and excludes and silences others. One is rather responsible to the wronged in its silent presence that acts like the sovereign. The excluded, I argued, occupy the same position in the 'we' as the sovereign: they are (outside) the norm and address us in their silent, aporetic presence, demanding a response. The passivity of *the thing* is thus a possibility condition of our response that reveals the *thing's* indifference to the phrasing (Lyotard, 1998, 20-30), its *carelessness*, its irresponsibility since it is both silenced and voiced by its constitution.¹⁵³ I argue that responsibility consists of irresponsibility before the law—an imaginative response to the figure that constitutes them as the sovereign. Our poetic response would constitute them as the subjects of the political, constituting a figure we represent in our discourse, poetically seeking words in its silence. This figure, in its undecidable character, is openness to address and its being *before* language silently, signifies, i.e. alludes to a demand that one *ought to* make sense of it through signification, like the silent call of 'the jews.'

Before the law that addresses it, however the figure is just *The Thing* that Lyotard says *ignores us* in its meaningless sense; in other words, it is irresponsible, but it is open to and demands a response. It is there, and its being-there demands a representation that would make it visible, in a figure materialized in speech. As I argued in the last chapter phrases can form a universe if they are responded to as if they are *obligations* (Lyotard, 1998, 7; 40). And the silent call of the Thing is an *obligating address* that we ought to find a meaning in its being-there: being before it, one has a responsibility to answer and constitute them as the sovereign with a poetic response. This inauguration of an imaginary dialogue with the *insensible thing* is reminiscent of what Habermas implies by 'swapping the positions with a generalized other' in an ideal space of address free of identities since the constraints of *the before* are suspended in each case: there is nothing identifiable present at the present and

¹⁵³ Likewise, a cognitive phrase aims to justify itself through reference to an object, but a concept displaces and replaces the presence of the object it represents, instead referring to the rules of language.

"what is the difference between this thing and the Law," (Lyotard, 1999, 26) if an incorporeal voice says *you ought to be just in your response*? Thus the Thing is meaningless unless its call is responded to, but has a sense that would be both revealed and concealed in a figure our discourse constitutes.

Lyotard argues that the material figure is outside language, but language takes it as a norm because its being-there precedes and enables language. Language is possible because the extra-linguistic is addressable by language and it embodies possibilities of citation. The figure occupies an aporetic position in the discourse through this simultaneous exclusion and inclusion just like the sovereign. A phrase thus writes off the unconditioned signifiability of the "before" by subjecting it to a condition (the rule of the phrasing), realizing a possibility of citation, which both *reveals and conceals* the passive receptivity that enables it. In a sense, the Thing is always already in a phrasal universe it necessarily inhabits thanks to the passivity that, by its very exclusion, structures it in normative terms.¹⁵⁴ In other words, *any figure constituted* is already before the law with the foreclosed remnant of the "before."¹⁵⁵ Every act of constitution excludes by inclusion: this is the constitution of sovereignty. Just as the socio-political norm is justified by an unrepresentable *before* (constitution, social contract etc.) that forms the community, language owes its representative operations to what comes before language, i.e., passive receptivity to the law/meaning. The remainder, the Thing that allows the making sense of the insensible and produces the force of law (*Ibid.*) is crossed over in the threshold from the almost nothingness to a life regulated by the forces of law; that is, it has always already constituted us as the addressee of responsibility for a past that is present before 'us.'

¹⁵⁴ *Il y a* as the extra-discursive can only be made sense by discourse. Cf. Davidson, Donald, "On the Very Idea of a Conceptual Scheme," in *Proceedings and Addresses of the American Philosophical Association*, Vol. 47, (1973 - 1974), 5-20.

¹⁵⁵ By extension, "[t]he body comes immediately under the force of the law—from the child's birth. Just as immediately, however, one knows that the child can never fully obey, that there will always be a remainder" (Lyotard, 1994, 117).

"[T]he thing is 'present' but, like the voice of Yahweh, it says to listen; it endeavors to signal the affect [affection] of an absent 'presence'" (Lyotard, 1999, 24), taking shape and a form in front of our eyes if one listens and responds to the responsibility. At the moment when we sense its call and are addressed by this troubling ghostly figure that seeks its just representation, our response seeks a meaning in its being-there, envisions the silent address *as if* it is said by what is invisible but will have been sensibly present if its representation is identified and coupled with words: our response thus becomes irresponsible to the constraints of the present,¹⁵⁶ shatters sensible limits in an attempt to see the possible future through the opaque screen of the 'before.'

4.3.2. *Response and Receptivity: Voice and Silence*

In this section I shall again seek to explain the questions of subjectification but through poetics. How does constitution of identity operate in discourses? "Sense is present as absence of signification..." (Lyotard, quoted in Bennington, 1998, 63) and the naked sense of *the thing* can thus be defined as its passive exposure to an infinite labour of interpretation over what it *ought* to be. This interpretative work is, Lyotard elaborates, *radical poetics*, the world-disclosing function of language: a speech-act of imagination that oscillates between the discursive (i.e., rule-governed speech) and the figural (i.e., a representation that has yet to be present) that always co-exist (Lyotard, 2011; 61; 65-66; 70; 347; 383-384).¹⁵⁷ In other words, being before 'the jews' is also being responsive to the imagined discourse of this figure one is responsible to. Poetics can envision and materialize a phantasmagorical figure on the threshold of presence when it is presently not visible, and speech here owes its meaning to

¹⁵⁶ We disavow the presently sensible that conceals its sense, and the former identities that screen out its visibility, dislocating ourselves from the present, and take a leap of faith toward what is to come. This "is poetic fiction, and occur[s] in a 'vacant space' from which the constraints of sensibility in the Kantian sense and those of the language of interlocation are eliminated. Speech already carries out this exclusion of the object (and subject)" (Lyotard, 2011, 62).

¹⁵⁷ Constitutive speech-acts rely on the interdependence and mobility of the material and the ideal, matter and speech, the addressor and the addressee, not on a referential relation to the presence: "If the artwork seems to 'oscillate,' this is because there is in itself a to and fro between what is realistic and what is imaginary, or, to be more precise, between what is 'discourse'... and what is figure" (Lyotard, 2011, 383).

the silent passivity of *the thing* it addresses and constitutes by the exclusion of its meaningless sense. Language is meaningful, Lyotard continues, only because what comes before language is signifiable by language and *the material figure* cited and constituted by naming must be passively responsive, be citable by language that forces it to enter into a phrasal universe in which its mere sense is ceaselessly displaced and replaced.¹⁵⁸ It is a responsibility that falls upon anyone exposed to the figure, and responsibility consists of a response—by attributing a meaning, a speech, a demand to it.

Since the *before* is neither lawful, nor lawless, but passively receptive to the law, *mutadis mutandis*, *the thing* is mute but not totally insensible since its silence structures speech (and new responses to this responsibility). Since “‘language’ has no exterior,” (Lyotard, 1984a, 17) the unsayability at stake must be conceived as an internal disturbance, a meaninglessness endemic to the meaningful which nevertheless “can say that [the extra-linguistic, such as] the ‘body’ says something, that silence speaks” (*Ibid.*). Thus Lyotard suggests that *the so-called insensible, mute figure (say, of ‘the jews’)* has an enigmatic address of its own, a meaningless sense, and a silent voice, or a mode in which it silently testifies to a presence always already residing within language, demanding response, and

¹⁵⁸ I am grateful to William McClure for a discussion on the mode of receptivity called upon before the silent addressor. In *Differend*, Lyotard says Cezanne’s is a painting that calls into question its very own nature and “obligates the addressee to ask about what it consists in” (Lyotard, 1988, 139). In other words, one may also conceptualize the mode of receptivity in terms of a wish-to-see. I however emphasize the obligation to hear the timbre, tone and voice of the painting as if it addresses you about itself, its possibilities of phrasing. And hence the wish-to-hear that calls upon the addressee even before it has a wish-to-see. We can liken the emergent addressor to a Cezanne painting that forcefully invites one to conduct a poetic investigation into its nature. That is what I call ‘recognition,’ which is closer to apprehension plus the creative work that follows it. The *differend* does not only arouse the feeling of sublime but also makes one feel an urgency: the visible needs to be phrased anew, again, in a similar voice to its tone that one is obligated to hear. And as a *pagus*, the next phrase to come that would address it would be the result of a work, conflict and trade, i.e. of a violent force of phrasing that cancels out other phrases and causes a silence to ensue. One experiences the *differend* here, but through its felt affects (a cut on the body, a threat, a promise, fear and trembling etc.). Exposed to the visible that demands an answer, one suspends the linkage between phrases and feels at home in silence. But this home is an uncanny home, cut off from the phrases and closed to what is to come. Here the emergent is concealed, the visible is silenced, and the Volk, Lyotard says, is attached to the archive of narratives. In order to re-awaken the feeling of sublime, war is necessary. I conceive the war as the constant struggle between narratives, phrases and links to keep up “the stakes.” Again an analogy is useful here: war is between the forces of the law that keep addressing our body, making conflicting demands, and turning one into a work of art; i.e., a Jew addressed by German forces of law, forces of community, forces of others. The constellation of forces makes us what we are (not): every time we are addressed, we have the chance to be otherwise.

placing a responsibility on us.¹⁵⁹ That mute figure subjectified testifies to the cryptic character of language always in debt to the silent receptivity of what it addresses. Thus it also demands a poetic speech-act. It is our responsibility to perform an act of speech that would identify, subjectify and recognize them. And our responsibility is to respond with poetic creativity to sense the meaning in their senseless, unrecognizable presence and traces of the unsayable in the already-heard: "The phantasy (the figure-image in this instance) is a ghost, a lost soul that discourse is called upon to redeem, because it is a meaning that is waiting to be signified, and that presents itself as a representation because it cannot find expression in words" (Lyotard, 2011, 347).

To be just in our response is our responsibility, but this responsibility can be performed by the irresponsibility to the present. We are thus exposed to the *thing* in its undecidable character that, without a recognizable identity, without speech, and without a norm of recognition, addresses its insensible visibility to us in a silent voice.¹⁶⁰ "The voice speaks to you only in the sense that it addresses itself to you, but its language is unknown to you" (Lyotard, 1999, 26) if one does not have an ethical sense and imagination.¹⁶¹ The voice is insensible as its address does not make sense by the rules of our phrases, by the present norms, or by its presence, and although it is a 'real' other we face, like a Palestinian in Israel, what we hear is not their speech: we do not identify it with what/who occasions it but *imagine it and re-present what is present before us*. We do not care about the informative content of their speech, whether they actually speak or not, or whether one can hear, make sense and understand their call: we respond to them carelessly but ethically, being the ones responsible for the situation and responsible to other people. This address does not aim to re-

¹⁵⁹ In other words, 'the jews' voiced a demand that, if Eichmann had acted as if they did and responded to their silence, would have re-constituted the community in Nazi Germany.

¹⁶⁰ "the jews" make a demand on Eichmann and hold him responsible for not responding to their silent presence.

¹⁶¹ Arendt relates it to the ability to hear the voice of the conscience: "a 'feeling of lawfulness that lies deep within every human conscience, also of those who are not conversant with books of law . . . provided the eye is not blind and the heart is not stony and corrupt'" (1964, 255).

instate the present norms of sensibility, i.e., validity and justification through the meaningful and the present, but a break with them, and although the address and our response mirror each other, that is because at this moment “signification is presented visually as meaning, and meaning is presented intelligibly as signification” (Lyotard, 2011, 70). In other words we respond by an act, say, in the Israeli Refuseniks’ example, of putting down our guns, which says more than words can. Our act signifies, becomes signification, and a silent response to a silent demand. At this moment we are disoriented, lost between the material and the ideal, and our speech seeks its norms in the visible *as if* it speaks.

It does not. It does not respond as it is irresponsible, careless, and indifferent: “the voice indebts you, the thing ignores you” (Lyotard, 1999, 29). It is *just there*: the Palestinians are, just are, in Israel. It is rather *us* that speak *as if* this figure would, finding words it would say in an imaginative act of identification: we would differ from ourselves, identify ourselves with the stranger, and since it is indifferent to identities, our poetic speech-act is not necessarily an unjust response as long as it testifies to *Il y a* and seeks a new norm in its silence. At that moment the ‘before’ gives way to the future. We thus respond to its call toward the future, as if it is a new law that will have constituted a new ‘we,’ disavowing the presently sensible, lifting the constraints of the community of sense, and as we grope for words in the silent call of others, we become *otherwise*.¹⁶² We become strangers to ourselves that we imagined would have been present if we responded to the silent call of the stranger. We also move from the present toward future. Radical poetics is thus futural and predicates

¹⁶² In *Otherwise Than Being*, Levinas notes that “[t]his breakup of identity, this changing of being into signification, that is, into substitution, is the subject’s subjectivity, its susceptibility, its vulnerability, that is, its sensibility” (Translating Levinas’ terminology of “the said” and “the saying” into the vocabulary of the present context, the pragmatic relation with the being as an object of knowledge converges to the said, and relating to it as an indeterminate object of aesthetics to the saying (*Ibid.*, pp. 30-36). If the meaning is not knowledge, the dialogue between two “I”s in Levinas becomes an intimate community meeting where we experience our essential passivity and mutual dependency as opposed to the anonymous I-That dialogue of the public sphere that any remnant of personality must be left outside before entering: The parties to the meeting reveal and get in touch with their unique particularity beyond the pragmatic determination, a sort of being-there *pathos* (singularity in the space-time) that transcends the brutal anxiety of being-thrown as they face the face of otherness, which turns out to be their own.

responsibility on a mobility of identities, mobility of temporalities, and mobility of elements of representation—the visible and the audible.

Conclusion: Ethico-Poetics of the Sensible

Demjanjuk died while his appeal was pending, before this chapter was finished with a final sentence, before a final sentence was given to him. In his last announcement, he “maintained that he was a victim of the Nazis himself.”¹⁶³ Whatever *really* happened to him *before* remains undecided, but his son, Demjanjuk Jr. says he “fell asleep...as a victim and survivor of Soviet and German brutality since childhood” (*Ibid.*), invoking a past no one can bear witness to. Nazi or victim, his testimony to the *before* and his presence *before* the law symbolized a past our justice system and understanding of responsibility have not found closure with.¹⁶⁴ His attorney, McGinnes also suggests that those charged at war trials “were nobodies—if in fact they were even there”: what have been judged indeed were the traces of the *before*, remnants of the Nazi law embodied by the war criminals, and as U.S. Attorney Steven Dettelbach maintains, “there is no judicial or natural outcome that can erase the acts of Nazi persecution” (*Ibid.*).

The silent remnants however cannot present a foundation on which the substance of law can be circumscribed from outside by the logic of exceptionality: they only embody the (un)representability of what comes before the law. As Lyotard argues, the addresses of the law subjectify an unrecognizable otherness that resists sovereignty. An ethical encounter with the unrecognizable ‘there-is’ transcends authority and dis-identifies its addressee. The silent presence of insensible lives makes a demand to be seen as the unrecognizable remnant of a material history of the political community that wrongs them. The exclusive past can be re-

¹⁶³ <http://www.cbc.ca/news/world/story/2012/03/17/obit-john-demjanjuk.html>.

¹⁶⁴ Yet the language used in responses implies that his presence or responsibility was not the real issue: there are indications other charges may be made after his death that would find him responsible since justice, a response and responsibility can well take place in one’s (or others’) absence.
http://www.huffingtonpost.com/2012/03/20/john-demjanjuk-dead-accused-nazi-guard-dies-91_n_1365742.html

read to uncover the contingency of norms that constitute and authorize the 'we,' i.e., archive of the people and form the receptibility conditions of speech-acts that constitute a body as somebody. Thus a wish-to-hear requires semantic futurity in re-interpreting the norms of the past that constituted the silent presence that nevertheless speaks by being-there.

In a community of sense one can and *ought to* respond to the silent bodies of Müssellmann, the (in)sensible absence of those one is affectively attached to, the alien language of the unseen Arab as if they are right *before* our eyes, as if they materialize into a figure that speaks the words of the law. Therefore justice, as Lyotard frames it, *is responsibility to what comes before the law with its undecidable character, and responsiveness to an insensible trace with regard to the (past and future) constitution of the matter of the lawful*. It is a poetic response to the question of what 'we' ought to be. Aiming to reform, and re-form the matter of the society in a sensibility enriched with the vision of the insensible remnant, justice brings ethics that go beyond the law and poetics that go beyond the present in a response to each and every invisible, silent figure in a community of sense. Azoulay defines the task of justice as "to direct one's look at what is revealed by each and every one, and to assume responsibility for how what is visible is articulated into discourse" (2008, 192). Similarly, I interpret it as expanding the legal frame that recognizes a body *as* somebody in order to realize that the silent stranger has always been (among) us.

This chapter thus re-orientes the study of the unsayable in the direction of a conceptual slide between the visible and the audible that seems promising for those who only have their silent visibility to offer in order to say something unheard by the law of our constitution. Radical poetics, Lyotard reminded us, can seek and find meaning in the visible that affects us by our speech's indebtedness to it, so that it can be articulated into speech that indicates a presence to come. Through poetic responses that rely on its silent addressor's indifference to

identities,¹⁶⁵ one can have a response to a body *as if* it is the law of somebody that one identified with and felt indebted to. On the other hand, if justice is to be understood as responsiveness to *all others* who address us, we are also perforce responsive to the 'we,' when it is its law that gave us a shared life in the before. Most Israeli refuseniks in fact face condemnation, marginalization, legal action, stigma for being traitors who, choosing enemy over brother, failed to repay the debt. Although justice at times demands disagreement with the sovereign, if it is the 'we' that demands a response, are we supposed to *agree with the sovereign*, as Habermas suggested? The next chapters will address the inherent tensions in the response to the address, where for Rancière too the silent visibility is indifferent to identities, and needs a poetic response that will articulate it, but it does not have an ethos, *or a moral character*: it is inherently non-ethical and in disagreement with the law.

¹⁶⁵ In other words, the task of recognition is never done and the Thing always asks for a full identity but it asks for justice too, the task of which is infinite.

Chapter 5. The Visible and the Audible: Mobility of the People

For my generation politics in France relied on an impossible identification—an identification with the bodies of the Algerians beaten to death and thrown into the Seine by the French police, in the name of the French people, in October 1961. We could not identify with those Algerians, but we could question our identification with the “French people” in whose name they had been murdered. That is to say, we could act as political subjects in the interval or the gap between two identities, neither of which we could assume. That process of subjectivization ... found its name ... in ...a ‘wrong identification, an identification in terms of the denial of an absolutely essential wrong. (Rancière, 1994, 61)

In this chapter, with the aim of exploring the constitution of and limits to what can be seen and heard socio-politically, I shall turn to Rancière. He too subscribes to an agonistic understanding of the political and conceives of politics distinguished from the political as organization and management of the sensible. Unlike Lyotard, however, he rejects ethics.¹⁶⁶ I will try to explore his ideas of subjectification as dis-identification and his notion of the political:

The distribution of the sensible reveals who can have a share in what is common to the community based on what they do and on the time and space in which this activity is performed... it defines what is visible or not in a common space...etc. There is thus an ‘aesthetics’ at the core of politics... It is a delimitation of spaces and times, of the visible and the invisible, of speech and noise... Politics revolves around what is seen and what can be said about it, around who has the ability to see and the talent to speak, around the properties of spaces and the possibilities of time. (Rancière, 2004a, 12-13)

Thus, for Rancière, visibility and audibility are normative constraints on the shared sensibility of the community as the etymology of *partage du sensible* implies. In French, “*partage*” means both “division, distribution” and “shared, common.” In other words, distinctions, separations, and demarcations both separate and connect us in a particular configuration of the sensible parts that should make the present whole. The sensible refers to both what can be sensed (as in a sensation) by the body, and what makes sense (as in the proper and the

¹⁶⁶ As next chapter elaborates, he frames ethics as an enslavement to the Other in its alterity.

rational) by the present norms of the society. Therefore sensibility for Rancière marks a normative mode of being there and together in a society regulated by divisions and differences. These sensible divisions and differences are managed by what he calls *the police*:

The police, to begin with, is defined as an organizational system of coordinates that establishes a distribution of the sensible or a law that divides the community into groups, social positions, and functions. This law implicitly separates those who take part from those who are excluded, and it therefore presupposes a prior aesthetic division between the visible and the invisible, the audible and the inaudible, the sayable and the unsayable opposed to politics. The essence of politics consists in interrupting the distribution of the sensible by supplementing it with those who have no part in the perceptual coordinates of the community, thereby modifying the very aesthetico-political field of possibility. (Rockhill, in Rancière, 2004a, xiii).

In this chapter I shall argue that the police keeps the coordinates of the sensibility fixed, and peopled with sensible, recognizable citizens that agree with the law, and see, hear, say and do the sensible thing that agrees with their different identities. As opposed to the mob where the line between speech and noise, one's body and somebody else's, the proper action and the improper action is blurred, in the policed *polis* of sense everyone must have the symbolic coordinates distributed to them that define their body as *somebody* with a class, gender, race, age, function, and thus an identity. The police puts tags and roadblocks: it marks what bodies are to be seen as somebodies, what spaces are public, private or off-limits, what demands are sensible or preposterous, what responses do or fail to make sense. The mob, on the other hand, is characterized by *mobility* amongst identities, times, spaces and the elements of the sensibility: its visibility is usually a silent threat that disagrees with the present law and its promising noise may materialize into the people of the future if heard and responded to. The police is thus the law of our sensible constitution as somebody in the community of sense organized as co-present, synchronized bodies identified with their representations.

In the first section I shall suggest that *partage du sensible* bring the people together as different but coterminous, co-present intensities of the sensible in the community of sense united by the norms of the present. Yet their dual character as the community and the

people indicates the inherent tension that leads to a wrong, and disagreement: the people become a community of different identities recognized by *the normative force of the police that is both the condition of and a limit to the sensibility*. In identifying with the symbolic positions distributed to them and agreeing with the law, they also must dis-identify with other people addressed differently.

This simultaneous identification and dis-identification in my account both wrongs the people in the name of the community, and brings to the fore the same tension between the self and the character in Habermas' understanding of subjectification, "[b]ut the political wrong associated with the double embodiment of the people is not a wrong like any other" (Rancière, 1999, 97), because the gist of the issue is not about others excluded from the community of sense. It is rather about the police, or the authoritative limitation to the sensible that, through forming an archive of identities and stabilizing hierarchies amongst the elements of sensibility, reduces their *unrecognized visibility amongst us* to invisibility, their speech to noise, and their presence to that of dead bodies.¹⁶⁷ Under the policed conditions of the community, the limit to the sensible is the limit to the symbolic positions in the archive one can identify with: namely, just *One*. The singularity of the individual is an effect of operations of power that individualize and subjectify. One is conceived in liberal politics as an atom, a sovereign individual that we all supposedly become when addressed by the law, although its symbolic position is a discursive place-holder that anybody can occupy *as if* we are one and the same. The aporetic formulation of identification assumes that this 'One' is a symbolic unity in opposition to *but* constitutive of the 'we' and the

¹⁶⁷ In the last chapter, I explained how the Nazi reduced the presence of 'the jews' to invisibility, silence and absence but I suggested that even the dead bodies address us silently, demanding justice. Subjectification as the constitutive outside to the norm of the society nevertheless makes a negative norm. For Rancière too subjectification as an outsider is an inside operation of the law.

unexplored gap between identity and identification both precludes and enables identification with others similar to but different from 'us.'¹⁶⁸

And one cannot see, hear, or respond to others because One is not allowed to identify with them by the power structure of the situation that silences the 'as-if' constitutive of our identities: because the police's "identification of politics with the self of a community" (Rancière, 1992, 61) seeks to ground authority in sovereignty, *in the law of the self distinct from the other*. However, I shall argue that identification is an effect of being before the law that others are and its modality is the same as the law: *as if*. In liberal thought, we all think, sense, act and speak *as if* we all are atomic individuals distinct and independent from others, but the aggregation of atomic, sovereign individuals cannot account for the secret of the social bond; that is, our imaginary relation to an imaginary "we" that, by definition of democratic theory, places our, individual sovereignty in the hands of others who are the possibility condition of our act and speech in politics. In sum, the individual sovereignty is predicated on the collective sovereignty, one's identity on a constitutive relation to others that *forms* us in aesthetico-political terms.

If politics is seen as one's relation to oneself as *other*, then what possibilities in the aesthetic-political field, new subjects and people can be revealed? And how exactly could re-formulating identification as dis-identification with one's self re-constitute the material conditions of the sensible in such a way that disagreeing others can be seen and heard? I shall draw on Rancière's understanding of 'literarity' as authorless speech,¹⁶⁹ an address without an authoritative addressor, to argue that it will be through a poetic speech-act irresponsible to the police and irresponsible by the present norm, an imaginary identification

¹⁶⁸ In the Nazi Germany example from the last chapter, the problematization of the sovereign individual (i.e., Eichmann) explored why One may not hear others (i.e., "the jews") as if they are one of us and their demand is articulated by our voice.

¹⁶⁹ Although authorless speech for Plato (which is who Rancière is reading) is writing, I challenge the distinction between speech and writing. I do not collapse literarity into the terms of speech act theory but draw on Rancière's notion to develop a theory.

with an image that seeks its authority beyond the present.¹⁷⁰ It moves through times and spaces, identities, and limits in the sensible because it is characterized by *mob-ility*.

5.1. *The Sensible 'We': The Mob-ility of the Political Body*

Rancière approaches the political community through the organization of bodies as somebodies with identities, functions, appropriate manners of speaking and acting. This is a constitution of society through the allocation of times, spaces, visibilities, appropriate modes of speaking and acting to a socio-political role, i.e., a body socio-politically recognized as somebody: "There is the mode of being-together that puts bodies in their place and their role according to their 'properties,' according to their name or their lack of a name, the 'logical' or 'phonic' nature of the sounds that come out of their mouths. The principle of this kind of being-together is simple: it gives to each the part that is his due according to the evidence of what he is" (Rancière, 1999, 27). In other words, the normative organization of a shared life makes us what we are, circumscribing what we can sense and act on in a vast network of sensibilities, granting our bodies a visible representation and our speech audibility before the representative institutions. Each body thus identified, recognized and placed in the world has modes of seeing and saying proper to it, and taken together, they are to form a whole, normative account of the material of the 'we': sensory undertakings of the society, the constitutive forms of its matter, identities, as well as its space and time. We are supposed to sense the world through the filters of those modes, or partitions which constitute one as a possible subject of politics, acting in accordance with the socio-politically prevalent distribution of the sensible.

5.1.1. *Constitution of the 'We': Identification*

The spatio-temporal divisions do not only normatively structure a socio-political division, Rancière elaborates. The distribution of sensibility articulates not just the subjects of politics that can be sensed but even the forms through which those subjects may appear in both public

¹⁷⁰ The 'present' is to be understood both as a temporality and as what is present before the law.

and private, including their many subspheres: It “is not so much the ‘disciplining’ of bodies as a rule governing their appearing, a configuration of *occupations* and the properties of the space where these occupations are distributed” (Rancière, 1999, 29.: emphasis original). They thus lay out the line dividing the public and the private. They also aim to regulate one’s relation to one’s body and mind, a subject’s sensuous, passionate or intellectual life, the possibilities of action and speech; *they subjectify a body as somebody recognized among the ‘we’ imagined to be a body political with parts*. Therefore the norm of a *partage du sensible* circumscribes what is the proper thing for a body as somebody to think, feel, say and do at a time in a place allocated to him/her within the ‘we’. The normative distribution of the sensible thus makes possible a subject-position in the socio-political whole and separates it from other positions through a division of times and places. *Partage du sensible* is irreducible into the Habermasian framework of norms because it is the very arrangement, patterning and portioning of the visible and the sayable, and hence of the normative itself. The normative division is just one distribution of the sensible among others. The police likewise constitutes *a* distribution, not *the* distribution. As I do not mean to collapse the police into Habermas’ version of the normative framework, it should be conceived as distinct from norms in the Habermasian sense. Identification and subjectification thus proceed on the basis of sensibilities, the spatio-temporal positions, visibilities and audibilities in the symbolic space of action occupied by political bodies. Rancière’s account of sensibility as a subjectifying constraint, however, implies that the sharing out of spaces and times also limits what can be seen and heard by the body through functionalist norms that form an *archive* of identities.

Therefore, although each subject lives their lives in unique configuration of times and spaces, Rancière argues that those configurations are subordinated to “forms of domination ... operative within the very tissue of ordinary sensory experience” (Rancière, 2009b, 31). Although our lives are distributed and separated into distinct times and spaces, we are

nevertheless situated in the controversial spatio-temporality of a political culture that brings us together by the force of the law that constitutes us as identifiable parts in the whole. The spatio-temporality of a political culture for Rancière is defined by the normative principles of co-presence and contemporaneity that unites diverse positions and temporalities of the people in the archive. They belong to the present, the space-time of our lives, sensing, speaking, acting and being simultaneously, though differently within the confined place of society. Therefore the norms of sensibility are the modes in which political co-presence is transformed into symbolic spaces and times of coordinated sensibility, speech and action. The principle of organization of the sensible thus serves as the law of our constitution in the sense that synchronization of this presence follows certain rules everyone is asked to agree on. Prevalent norms orchestrate the partition of sensibility and form the unifying values around which our lives should perforce revolve, in agreement with our functions, identities, and accorded sensibilities. Given that those norms are put in place and enforced by a political force, by a “system of distribution and legitimization,” Rancière thematizes and politicizes the normative distribution and management of the sensible via his distinction between politics and police:

Politics is generally seen as the set of procedures whereby the aggregation and consent of collectivities is achieved, the organization of powers, the distribution of places and roles, and the systems for legitimizing this distribution. I propose to give this system of distribution and legitimization another name. I propose to call it *the police*. (1999, 28)

Conventional politics, in the sense Rancière uses the term, is the founding and legitimizing act of speech whereby times and places are distributed to respective subject-positions that should make sense of the socio-political life through those partitions. It is again a ground zero subjectifying speech-act, Rancière says, since the whole society is organized around an archive of identities, functions and respective sensibilities that bring together the precarious representation of our present united by a single force of law that constitutes and divides us as atomic individuals. However, the act of speech is subject to repetition and self-difference; it

tends to change the meaning of its term and the identity of its subjects every time it is reiterated. And the police is the force that aims to foreclose self-difference, change, and a mobility among spaces, times, and identities.

5.1.2. *Anonymous Re-Constitution of the 'We': Dis-identification*

Since it has been embedded in the rules of the proper, a regime of sensibility can reproduce itself normatively, that is, justifying the distribution by the efficient harmony it establishes amongst the parts of the whole subjectified to agree with the system. As the system secures its prevalence the identities thus constituted become sensible, i.e., recognized by the law, whereas the manner of speech appropriate to them makes sense and can be responded to. Although a functionalist representation of social subjects can never exhaust the modes in which they experience the possibilities of the present sensibility, there is "normally" a dominant distribution that posits a 'harmonious' relationship between the fact of being in a specific time and place, practicing particular occupations there, and being equipped with the capacities for feeling, saying and doing appropriate to those activities. Therefore police (i.e., control, management and sensible reproduction of the society) as domination (that is, hegemony of, by and over the archive) controls, legitimizes, and re-establishes the harmonious sharing of times and spaces by framing what ought to be sensed, said, heard, and seen by the body at the present. But for Rancière, politics (as opposed to the police) as disruption of the distribution of the sensible brings into visibility new identities, subjects, manners of speaking and acting:

Man is a political animal because he is a literary animal who lets himself be diverted from his 'natural' purpose by the power of words. This literacy is at once the condition and the effect of the circulation of 'actual' literary locutions. However, these locutions take hold of bodies and divert them from their end or purpose insofar as they are not bodies in the sense of organisms, but quasi-bodies, blocks of speech circulating without a legitimate father to accompany them toward their authorized addressee. Therefore, they do not produce collective bodies. Instead, they introduce lines of fracture and disincorporation into imaginary collective bodies. (1999, 39)

Here Rancière takes subjectification and recognition as a matter of address, not of natural function, essence, or identity. Although the 'we' is constituted by the distribution of sensibilities, functions, identities, and a symbolic place to bodies in the political space-time, it owes its *political* existence to literary constitution of bodies by the illocutionary force of speech as somebody. Addressing a body as somebody constitutes and recognizes its identity, and places it in the shared sensibility of the society as they are *diverted* from their senseless presence of the *before* by "political statements and literary locutions" (*Ibid.*). Yet those constitutive addresses, as argued in the last chapters, rely on the mobilizing force of speech, its insensible persuasive power to move an other's submissive body as if it is one's own when responded to like addresses of authority. Therefore our identities, socio-political functions, and sensibilities are not inherent, 'natural,' properties that normatively structures what is a proper thing for a body to feel, say, or do. Rather, they are discursive place-holders: identifying representations of *anonymity* constituted by the *illocutionary force* of the authoritative address that make sense of and affect our presence as sensible difference in a whole which is both fractured and brought together by *partage du sensible* (*Ibid.*).

Thus subjectification is "the formation of a one that is not a self but is the relation of a self to an other" (Rancière, 1992, 59) whom one will relate, respond and differ to in the sensible context of a whole; one of the major differences between Lyotard's account of subjectification and that of Rancière's is that *identification is simultaneously dis-identification* for the latter. And when Rancière attributes to the subject the status of an "outsider or, more, an in-between...a heteronomy" (*Ibid.*, 61), he emphasizes this is an *anonymous* difference in position (i.e., an aporia) constituted and policed by the authority of the norm that distributes the sensible: not a natural given, but a diversion from one's nature, a process whereby the self becomes otherwise when it assumes the position of the addressee that responds to the call. "In this way, a process of subjectivization is a process of dis-

identification" (*Ibid.*) with those who are not addressed in the same way. But being a self different to others also implies being an other to oneself in identification since it is a diversion from and to the path of sovereignty by others. In other words, "politics," Rancière explains, "...is the politics of the self as an other, or, in Greek terms, a *heteron*" (*Ibid.*). When one responds to the constitutive address that would place one's body as *somebody* amongst us, one gains an identity one does not choose or give consent to, and as discussed in previous chapters, submits one's self to the law of others one is asked to (dis-)identify with. Therefore identification of one's body as somebody among us brings together both *anonymity* and *heterony*, being a nameless other to oneself that dis-identifies with others. It is thus that the 'we' is constituted from One.

Yet the mobilizing force of speech that subjectifies and forms the primary social bond of the society on difference and (dis)identification is both predicated on and troubled by the exposure of a body to somebody else who addresses it. The positions of the addressor and the addressee can always be subverted by speech, since anyone can adopt anonymous positions. Since sensible identities are basically positions in the constitutive address that make sense in relation to each other, 'blocks of speech,' and not naturally inherited places in the sensible fabric of the society, authority enables another mobility; *that of identities amongst bodies that can always be diverted from them by* "the equality of any speaking being with any other speaking being" (*Ibid.*) that foils the monopolizing claims to constitutive authority.

The community of sense is constituted around sensible differences. But differential positions in relation make sense by the norms of the present, when "the cutting up of the perceptual world that anticipates, through its sensible evidence, the distribution of shares and social parties" (Rancière, 2004, 225) sets the sensible political world of differences. The 'we' also appears as "the place for a polemical construction" (Rancière, 1992, 61) since the 'we' is constituted as the embodiment of a wrong: "The gap between the people as community and

the people as division is the site of a fundamental grievance" (Rancière, 2004, 61) since it is both a life-giving condition of and a self-justifying limit to our sensibility, sovereignty, and self-identity. In the next section I examine how Rancière exposes the secret of democracy that keeps *demos* away from *cracy*, the self of the people from the rule of their constitution, paradoxically by self-justification.

5.2. *The Archive of the Sensible: Justification of the 'We'*

The aporia of the law is such that when it constitutes the people as the 'we'¹⁷¹ it is not justifiable by the self-rule or the rule of the law in the senses Habermas uses these terms; the Constitution makes people (who have yet to become 'the people') otherwise in the temporal movement of self-constitution without justification—the people are not the ground but the force of the law. The force that constitutes them is thus unjustified power that the law will have had recourse to in order to justify itself. The aporetic and futural movement, however, is by definition open-ended and when halted by the force of the law that now (at the present) is seated in the archive, democracy becomes the hegemonic rule of representations over the people, that is, the 'we' constitutive of a community of sense.

5.2.1. *The People are (not) the 'We': Archē and Archive*

Rancière therefore grounds the community of sense in the groundlessness of authority: "there can be no *arche* corresponding to the *demos* as subject, no way of ruling according to some inaugurating principle; there is only –cracy— a manner of prevailing..." that keeps *demos* submissive and responsive to the mythical law of its constitution (1995, 94). In *Disagreement* he illustrates, through his critical engagement with founding thinkers like Plato and Aristotle how 'policing' theory constitutes society as a distribution of proper identities, functions, powers and institutions according to principles, and from that point of reference proceeds to

¹⁷¹ *Demos* is the situation where the people are aporetically set in contrast to the 'we'; the aporetic line of differentiation and identification between the two is an ongoing theme in my thesis. I argue drawing on Rancière that *cracy*, on the other hand, is the situation where the law takes part in unjustified power, and vice versa.

justify it through authority granted by the constituted to the law. Yet this too is legitimization by the presently sensible: sensible citizens agree to the law that constitute them as sensible identities recognized, protected, and responded to in our community at the present. The people, however, had no say over their constitution, or the rule that made them what 'we' are. At the mythical origin of the society, they were the future addressee of the law that will have constituted them, moving through space, time and between identities and not simply present to give consent to the rule. It was and still is a poetic self-creation of the people as *others* by *others* through the mobility between the self and the other that makes us uncertain who 'we' are that makes the law.

Disregarding this mobility constitutive of the social bond keeps the people from making the law that will have made them what they are: others to themselves. Rancière thus exposes the scandal of democracy that kept *demos* away from *cracy* in the *contingent* constitution of the community of sense by the assumed authority of self-justification. Liberal politics is at an impasse, he argues, due to "the identification of politics with the self of a community" (Rancière, 1992, 61) that seeks to ground authority in the sensibly present, in the sovereignty of what is present before the law, in *its agreement it is constituted to give to the law*. Its self-justification *immobilizes* them in the present, in its present identification with the 'we' that, by the unperceivable line between the sensible, agreeable self, and the insensible, silent other, stops the time of the people, and limits its space. Yet this faint and precarious line also gives rise to challenges from in-between the present, and the absent, the present and the future: "[a] *partage du sensible* is thus the vulnerable dividing line that creates the perceptual conditions for a political community and its dissensus," (Panagia, 2010, 96) its own threat to and promise of *re-constitution*.

Here I will expand on Rancière's understanding of the law to re-formulate the rule of our constitution: I argue that the law is *the intelligible*, the present norms of rationality;

making sense by rule-following. And the rule makes sense of the sensible through identification and recognition as a happiness condition of the speech act. Rancière points out that *partage du sensible* materializes images of the people that we *must* identify with if we want to have a sensible presence in the shared life. It matches bodies with proper manners of acting, speaking, sensing, forming *archetypical* sensibilities. It thus dovetails visibilities with sayabilities, forming identities according to a rule of constitution. And it authorizes only the archive of sensibilities it constitutes to have a sensible presence in public where it is justified. Yet the police also demands that the people *must not rule over the rule of their constitution*. They *must* follow the rule that makes sense of the sensible, not move from the position of the addressee to that of the addressor, from one identity to another.

His critique of the founding thinkers of the political casts into sharp relief that our sensible self that justifies the rule is constituted by others, i.e. by an address where the addressee and the addressor are not equal. In Plato's *Republic*, for instance *demos* is divided and represented as a set of social classes that, as narrated in the myth of the metals, are distinguished in their 'natural' tendencies, capacities, and functions. While the people is expected to mind the private businesses that befit their class (crafting, selling, going to war etc.), they should leave political decisions to the sovereign philosopher. Similarly, in Aristotle's thought, *the aporoi* (in the Greek polis' context, the barbarian, the slave, the poor and the women) are not allowed into the public sphere to have a presence in the polis. Rancière thus attaches a troubling element of *inequality and insensibility* into this sensible account of democracy, where the aporetic images of *demos* can only (dis)appear within the limitations on the political space imposed by figures that are supposed to represent and instantiate their presence. Political discourse demonstrates the animation of visible figures that *can and must* people the polis but they undecidably become presently absent, and present in their absence. Within the Platonic organization of bodies as a community, the farmer, as a

political figure, can only come into view against the familiar background of farms, paradoxically losing its political visibility because farmers take no part in politics and have no business in the agora where they should have no presence. In Aristotle's thought, while the slaves are properly assigned to the work site and kept out of sight, the women must stay within the confines of the utterly 'apolitical,' i.e. the private. And the sight of the barbarian, normally blocked out by the high walls of the polis, only heralds the end of discursive politics, and the beginning of war and catastrophe.

As identities gain visibility through the functionalist frames of gender, race, class, and nationality, they form an archive of political subjectivities that mark the invisible line that separates the visible and the invisible in a community of sense. They, those bodily parts of the socio-political body who have no parts, although constitutive of the political society, take no part in politics. Indeed those images of the people kept outside the public sphere of speech, deliberation, and politics are paradoxically construed as incapable of being the addressor of the law, since they cannot participate in intelligible discourse. The most salient example, that of 'the barbarian' in Ancient Greek as someone you cannot reason with, is derived from *βάρβαροφώνος* (*barbarophonos*), 'of incomprehensible speech.' Their barbarity lies not in the fact that they are mute beasts, but that even when they speak, they do not make sense to the citizens of the Greek polis through speech that should only voice "the sharing of a *common view* in these matters that makes a household and a state" (Aristotle, *Politics I*, 1253a 9-17, 60; emphasis added). In other words, they do not agree, do not share the Greek *nomos* as they do not sense, say, or act as Greeks do. They do not share the Greek archive of the public meaning that matches the visible (bodily images) with the sayable (speech as discourse). There is no room in the agora for their senseless presence that disrupts the link between the visible and the sayable. Similarly for Aristotle "[s]ilence is a woman's glory" (*Rhetoric*, 1260b 28-30) as the women embody the passive, irrational, inert, bodily

element “more false of speech” (*History of Animals*, Book IX, Part I). They become deceptive in so far as what they say does not correspond to what can be seen. And some should be slaves by nature if they “are as different [from other men] as the soul from the body or man from beast,” (Aristotle, *Politics*, 1254b 16-21), that is, if they cannot reason, speak, make sense and make law. In other words, anyone deemed a visible figure without an intelligible meaning, a body without a soul, unable to order the sensible by the intelligible, should not speak or act politically and have a public presence.

5.2.2. *The ‘We’ and Silent Others among Us: Constitution of the Community*

In the last section I dwelled on the distinction between the demos and the archive of identities; the subjectification of the people into classes in time brings about archived identities one needs to identify with. In this section I will explain the subjectification of the *aporoi* through hierarchy. In Rancière’s thought, “a law of communal existence which was also a law of hierarchical subordination” (Rancière, 1995, 69) brings together the two constituents of the community of sense: first the sensible (the visible and the sayable) and, second, the intelligible (the rule of combining them together, the law) in a hierarchical fashion. The operations between the sensible and the intelligible that it is always subjected and subordinated to¹⁷² and that orders it in meaningful sentences or images, constitute a community of political subjects reflected by a community of signs as “characters that make up a world for us” (Rancière, 2007a, 35). The cutting up¹⁷³ of the visible (the body, the matter, the naked presence) by the sayable (discourse) into figures runs parallel to the construction of the socio-political world that materializes the taxonomy of the rule. It is the

¹⁷² “[A] combination of elements in accordance with general rules and a community between the intelligence that produces the combinations and sensibilities called upon to experience the pleasure of them ... involved a relation of subordination between a ruling function ... and an image-forming function in its service” (Rancière, 2007a, 39).

¹⁷³ “I understand by this phrase the cutting u[decoupage] of the perceptual world that anticipates, through its sensible evidence, the distribution of shares and social parties... And this redistribution itself presupposes a cutting up of what is visible and what is not, of what can be heard and what cannot, of what is noise and what is speech” (Rancière, 2004, 12-3).

"narrative of the division of labour in the social body: the fable of the belly and the limbs ... [where] the plebeians were the belly, the vegetative part of the city, powerless without the protection of the patricians' embrace" (*Ibid.*). The sensible component of democracies (the ruled, the people) is paradoxically characterized as senseless presence, noise without meaning, a body without invisibility, viz., with a lack of common sense and sensibility, passive, feminine, unable to respond to intelligible speech with speech, powerless and silent like a body in vegetative state. However, the inequality at stake does not so much stem from functional inferiority (the body is very useful, and so is a slave) as *difference in representation*: "One enters the community of equals not by being useful to them but only by being *like* them. There is no way being counted one of them without reflecting their own image: an equal is someone whose *image* is that of an equal" (*Ibid.*, 70; emphases added).

Rancière thus situates political hierarchy in the sensible *imagery*, as an archive that splits the sensible only to privilege the (un)sayable equated with the rule as opposed to the (in)visible as the meaningless; the history of relations of inequality that sedimented into "the set of discourses that would deduce the forms of identity and alterity" (Rancière, 2007a, 18) converge with the socio-political process of recognition that cloth the visible in an identity. Our senseless, naked presence is recognized as addressed and seen through the inventory of public images that unfold the meaning of the visible on the basis of sentences that organize semblance and resemblance, difference and similarity, the self and the other. And although the people are expected to take on and continually perform *sensible* (i.e. proper) representations that, by the logic of the private, privilege or subordinate them, the subjectivities they find themselves thrown in are not their property in their control. The archive of all the bodies (the artisan, the soldier, the slave, the women, the barbarian etc.) correlated with the social meanings they are to perform has always already been compiled by

partage du sensible that anticipates and regulates what it means to have a sensible presence in the political world in advance.

This self-reproducing spatio-temporalization is *normative* to the extent that it creates ontic criteria of membership to a community. When the people are addressed by the law, they are *asked* to identify with and incarnate one of those images available in the archive so they can come into the sight of the law as recognizable subjects. Rancière names the archive of material modes of political existence ‘types’: “Types are the formative principles of a new communal life, where the material forms of existence are informed by a shared spiritual principle” (Rancière, 2007a, 95). The time of the political community, its present norms of spacing and visibility, its *nomos* of sensibility “wants the form of the object [of law] to correspond to its body and to the function it is to perform. It wants a society’s forms of existence to convey the internal principle that makes it exist” (*Ibid.*). Therefore through a series of *metonymic* operations, the body of the community becomes the signifier of the body politics where each singular body materializes a type in its functional image.

Rancière thus approaches norms of visibility through the problematic history of types (not quite stereotypes, but *arche-types*, a principled way of having a material presence, acting and saying) that constitute and regulate the imaginary community of the sensible. The history he excavates encompasses a variety of the ways of seeing others’ image as parts of the same public imaginarium, (i.e. different regimes of the sensible that flesh out images in the representative regime), however, the established practices of revealing the meaning of the visible with the sayable matches the political figures with the archetypes of the community. It was the *expectation* on the part of the people that a figure would appear, speak and act in an *imaginable* manner, Rancière adds, that grounds the sense (rationality, conceivability, credibility etc.) of the image in a norm that materializes the anticipation.

Therefore there is an imaginary history of the law that constitutes a community of sense –imaginary as it forms an archive of images, material representations–, sedimentations of which raise a social space (of meaning) out of time: “the way in which, by drawing lines, arranging words or distributing surfaces, one also designs divisions of communal space” (Rancière, 2007a, 91) constantly constitute and re-configure the material world in which the meaning of actions are predetermined by the available forms of inhabiting it. The matter of the law is the body of the people that the law cuts into manageable figures of the visible and the sayable, acting predictably. But behind the ordered appearance of the political that restricts the visible lies the plenitude and fecundity of unrecognized life forms that still seek their images by speech-acts of imagination.

According to the thrust of Rancière's argument, because a *partage du sensible* (when it polices¹⁷⁴ and aims to regulate what is always multiplying, mobile and equal), limits our imagination, it restricts what bodies can sense, say, do and be to the sensible. It puts a normative restriction on differences that make sense, can be sensed and responded to by (dis-)identifications. The rich cannot hear the poor, the men cannot identify with women and the gay, the stranger cannot be the citizen, and the people, paradoxically, cannot be the addressor of the law that would re-constitute the community of sense. In reducing the possibilities of having a presence in the society to the present archive of identities it authorizes, distribution of the sensible thus also starts a conflict and disagreement over who can be seen, heard, and responded to. “It is a conflict over what is meant by ‘to speak’ and over the very distribution of the sensible that delimits the horizons of the sayable and determines the relationship between seeing, hearing, doing, making, and thinking” (Rancière, 1999, 4).

In the next section I will introduce Rancière's account of element of insensibility in the rule-governed sensible world of the ‘we’. This is a not a situation of the addressee and the

¹⁷⁴ A *partage du sensible* is not the same as the police. The police is a particular type of *partage*.

addressor seeking agreement on the rule that makes us what 'we' are, but disagreement where the parties do not reside within the same arrangement of the sayable and the visible to co-author a performance orchestrated by the law since the addressee/addressor does not qualify (i) either as a sensible (rational, rule-following) subject that can respond to the address sensibly or (ii) as a subject of the discourse that can be sensed as addressing us at the present (*Ibid.*, xii).

5.3. *The Insensible: Injustice, Wrong, Disagreement*

Politics, as Rancière conceives it, is both a condition of and a limit to our sensibility:

partitioning the matter and time of a shared life in this way also distributes the sensible into subjects of politics which the people must identify with in order to have a sensory presence.

They gain visibility and audibility if they perform the archive of identities while the system of representation gains *ad hoc* validity if they function, see, talk and act as prescribed by the law. The representation of the people presumably coincides with their constituted presence. The political on the other hand is disruption of politics by identifying with those who do not have a sensible presence amongst us to reveal their images. This is an imaginary subjectification: an impossible identification within the present aesthetic-political field of possibility because first, it identifies one with that dis-identification with which makes us what we are, and secondly, it dis-identifies one with oneself, one's law, and one's position within the 'we'.

Rancière here gives the example of the Arabs killed in the name of the French law that his generation identifies with. This an identification that goes all wrong from the view point of present law of sensibility, finding its norm in a wrong done by the law. He interprets this identification as a process of equality that brings into the community's sensibility field its parts that have no part in the sensibility; like the unrecognizable dead bodies of those who

were not recognized to have a sensible presence in the shared life of the French people.¹⁷⁵ Theirs is an identification which does not make sense, but which reveals the distribution of the sensible by occupying the border line between the sensible and the insensible. It reveals the community of sense as constituted by a wrong: "It is a function of the fact that a wrong exists, an injustice that needs to be addressed" (Rancière, 1999, 97) that we sense the limits to our community. The wrong is the limit to the community of sense, and its sensibility which, paradoxically, we owe our sensible presence to. Wrong is thus another word for identification with the insensible at the present and addressing the wrong requires responsibility to identify with the wrong responsibility does to the insensible.

5.3.1. *The Insensible: Demand for Justice*

Rancière places a stark contrast between justification and justice at the heart of his political theory: justification is by the presently sensible, whereas justice directs our eyes and ears to the insensible, the silent dead bodies that called Rancière's generation to action. Whereas Habermasian agreement brings the sensible under the domination of the presently sensible, i.e., the law, in Rancière's account of the political, the law does not give the unrecognized a space, time, visibility and audibility in the sensible since it delimits what can be sensed by what makes sense at the present. An insensible demand out of place and untimely, at odds with the normative distribution of the sense however, is usually reduced to nonsense since the object of the demand may not be a subject-position recognized and available at the time, just like a poet proletarian unimaginable in 1880s, or a lesbian mother unthinkable in 1950s, or an Arab French in the 1960s. Although there were no times and spaces allocated to the actions of those untimely subjects, they all became visible ahead of the political times and spaces in which they emerged, disturbing the spatio-temporal order of the present and the future.

¹⁷⁵ But the Arabs are not "victimized" by Rancière who argues against Lyotard's notion of the *differend*: they were not silenced because they kept problematizing a wrong even in their silence. Rancière's focus is rather on others who can speak for the Algerians murdered by the police.

In other words, they had no share of our present times and spaces, their presence disagreeing with the distribution of the sensible. Yet they also embodied the dividing line between the sensible and the insensible, between a wrong and justice because it was wrong to be deprived of a shared life. They demanded justice, coming before us, from beyond the *before* that constituted us. *Rancière thus posits justice as disagreement*¹⁷⁶ *with the law of sensibility that can only recognize what it constitutes by the distribution of visibilities and audibilities to the present identities that make up the 'we.'* Chambers registers the untimeliness of justice perfectly when he notes down that “the appearance of a political subject is always untimely in the sense that the political subject is only intelligible as such after the moment of politics” (Chambers, 2012, 9). In other words, those emergent subjects disagreed with the distribution of the sensible of their times, acting out of turn, and speaking out of place, demanding justice: “[p]olitics occurs when those who ‘have no’ time take the time necessary to front up as inhabitants of a common space” (Rancière, 2009b, 24). Judging from the perspective of justice, Rancière asserts that the police wrongs them denying them a nameable identity and recognition: “outcast is the name of those who are denied an identity in a given order of policy” (1992, 61). While a conflict amongst the members can be resolved by justifications by the present norms of the community, a contestation by the *aporoï* over visibility, and audibility, i.e., criteria of membership in a community of sense initiates a debate on the founding norms of the ‘we’. The latter challenges the dominant principles of justification in the name of justice, risking the illegitimacy of a subjective-position that displaces itself from the community.

¹⁷⁶ Disagreement is not the same as the *differend* where silence prevails between the incommensurable discourses. In Lyotard’s understanding, a *differend* occurs when two discourses cannot be bridged, whereas in Rancière’s account, disagreement questions the discourse of the powerful.

5.3.2. *The Insensible: Logic of Equality*

Rancière casts this emergence of untimely and out-of-place demands as a new logic of equality derived from aesthetical field that needs verification by a presence to come: “[c]ontrasting with the representative scene of the visibility of speech is an equality of the visible that invades discourse and paralyses action... It does not make visible; it imposes presence” (2007, 121) from within. However, Rancière’s politics of equality is not undertaken by the excluded subject in society that becomes aware of itself as the dominated, and creates a space for dissent by a demand that they be given what is their due, evidenced by what they are: on the contrary, it is the act of dissent that transforms the identities given in nature, the ‘we,’ and creates political subjects hitherto invisible/inaudible within the divided political space (Bingham, 2010, 25-49; cf. Rancière, 1992, 62-64). As a political act of dissensus that “operates upon the identities allotted by a dominant culture, locating within them opportunities for the demonstration of new capacities,” (Tanke, 2011, 49) such modes of aesthetical subjectifications reliant on contestation reconfigure the division of the political whole, the sensible constitution of the society and the nature of politically recognized subjects: “It is introduction of politics, the system of forms of subjectifications through which any order of distribution of bodies into corresponding functions corresponding to their ‘nature’ and places corresponding to their functions is undermined” (Rancière, 1992, 29).

Rancière’s account of disagreement thus relies on the visibility of those who have no space or time as subjects of speech in the present community of sense. “[I]t is through the existence of this part of those who have no part ... that the community exists as a political community—that is, as divided by a fundamental dispute” (Rancière, 1999, 97) on who ‘we’ ought to be.¹⁷⁷ A disagreement takes as its object the principle whereby the sensible parts that make up the community of sense are distributed to the available subject-positions. When a

¹⁷⁷ Although in Rancière’s account, the question is what the we can be, as opposed to the ethics-oriented question of Lyotard.

new subject, insensible within the distribution, such as a lesbian mother, emerges, it initially has no position within the socio-political constitution of the society since its image does not make sense by the norms of sensibility of the present that couldn't foresee it before and cannot see it now. Consequently, the distribution of the sensible wrongs the subject-position at stake, makes it invisible and silences its speech; it becomes insensible. The emergent subject-position thus has to problematize the norms in "a conflict between a given distribution of the sensible and what remains outside it" (*Ibid.*, 4).

Disagreement happens on the borderline between politics (rule-governed management and control of the society) and the political (a disruptive contestation): between a political present represented as a limiting past, and its future that cannot be exhausted by the present. And it moves, around an image that oscillates between the presently insensible, i.e., *imaginary*, and thus possibly very rational, possibly very material *if it* can reform the matter of the community: *if it* can materialize the political space where its silent call is responded to as if it is the new law of our constitution. The question of disagreement is thus not if our demands are justifiable, but *if they are heard and responded to as demands*. And what is at stake is not politics per se, but *what will have been constitution of the political, a polity*, a community of sense where the response to the question of who we would see, hear, respond to and share a life with as equals before a law to come would re-form the material conditions of that life. And finally, calling into question and contesting the conditions of sensibility that enables and limits the presence of 'we,'¹⁷⁸ (which undecidably differs from the 'we, the people') the disagreement at stake is the re-enactment of the *before*; a re-count and a re-constitution of the people by the *mob-ility* between times and spaces. The world-disclosing function of speech is thus the irresponsible march of a mob towards what is off-limits.

¹⁷⁸ Again the question for Rancière is not so much as "What ought the we be?" but "What can the we be?". He emphasizes creativity and aesthetics over ethics.

The speech-act is thus imaginative, responding to an imaginary image by irresponsible imagination that throws off the normative hold of the present and the sensible on our senses. Seeking its norm beyond the presently sensible, it discloses a possible world to come by mysterious *poesis* that both points to and creates a shared world that moves beyond the present: "The machine of mystery is a machine for making something common, not to contrast worlds, but to present, in the most unexpected ways, a co-belonging" (Rancière, 2007a, 58). Rancière argues that if the community is nothing but its own fragile expectation, then it is (re-)created by poetic speech-acts that possibly *vindicate* the community of equals through *the mobility* of the people between the present and the future, the sensible and the insensible, the visible and the sayable, the matter and the ideal of the community.

Conclusion: Literarity of Mob-ility

In this chapter I have argued that Rancière frames the constitution of the society through distribution of the sensible that recognizes a body as somebody through literarity: the address of the law is both an enabling condition and a self-justifying limit. It enables our sensible presence so we can be seen, heard and responded to by others, but it justifies its authority by limiting the 'we' to an archive of identities recognized and policed by the present norms. This is achieved by our double constitution as a unified community of the police (a self) and divided, anonymous people of the political (character), simultaneous identification and dis-identification that gives rise to a hierarchy that authorizes and wrongs at the same time. It authorizes the self of the community we identify with, but *characterizes* some parts of it as mute bodies that can only be the addressee of the law: insensible others we cannot see, hear, or respond to as if they are our equals before the law we can identify with.

The insensible are the *aporoí*, parts of the community who cannot take part in the sensible life we share; those untimely, out-of-place bodies that seek their recognized images presently not included in the policed archive of representations. They are wronged by the

present norms of making sense, Rancière elaborated: a) because they are not part of the community's policed self that is assumed to justify its norms by itself, b) those norms immobilize the present self, ignoring its constitution as an anonymous other to itself by literarity, not justified authority c) and finally, those policing norms of making sense, as I shall investigate fully in the next chapter, arrest the insensible motion between the elements of the sensible, stopping us imagining that the bodily image can say something in its silence, point out a wrong about *ourselves and show the limit to our sensibility*.

To the immobilizing force of the police, Rancière opposed the free motion of a people seduced by its literarity. Throughout the history of the "autonomy of verbal arts" (2007, 39), Rancière tracks down "the ability of a sensory community to grasp anyone and anything in poetic *wandering*, by going back over the route of the inaugural walk" (Rancière, 2004b, 20). The walk where the mob returns to the moment of its constitution, faces itself as others wronged by itself, ready to be otherwise. The moment of disagreement for people, Rancière argued, could be a moment of self-creation as others, where they recognize the wrong of the law of our constitution that misrecognizes the 'we' as the sovereign. The people demand, not justification, but justice on this walk and since justice for Rancière is fundamentally distributive in a non-liberal sense of the term, the excluded or subordinated groups who have no say over the distribution of the parts reveal the groundlessness of authority, "the absence of *arkhē*, the sheer contingency of any social order" (Rancière, 1999, 14) that can be undone by authorless authorship of an address that can be taken up by the people insensible at the present. The visibility of the new subject-positions requires not dutiful application of the norms that rendered them invisible in the first place, but radical modifications in the normative order that would disrupt and expand the field of visibility. In other words, a disavowal of one's place and dis-identification with one's subjectivity, only makes sense as a disagreement over the very distribution of the presently sensible. The disagreement does not

take place outside the space-time of our lives, but on its borderlines, its controversial horizon, its future.¹⁷⁹ And more importantly, a disagreement confronts the intelligible, that is, modes of rationality that control its delimitation.

Rancière's disagreement therefore attests to a normative crisis of making sense in the community of sense uncertain of itself at the present. It poses the question of who can be sensed to take part in politics of the sensible that makes sense of the people. Untimely perturbations in *partage du sensible* are thus challenges to move on from the present and invent a new socio-political space and time to make the invisible visible, and say the unsayable. The dissensus problematizes how justice can be done by what seems to be injustice from the viewpoint of the present. Therefore, injustice is done in temporal terms, to the present norms, by an untimely subject, for a democracy to come, and in the name of justice for the future. Disagreement as a speech-act should disrupt the linear flow of time, revealing the co-existence of the past, present and the future in the times of our lives. Events happen because there is futurity, the future in the present laden with the past, because there are different temporalities within the 'same' time.

If, as Rancière puts it, "[p]olitics revolves around what is seen and what can be said about it, around who has the ability to see and the talent to speak, around the properties of spaces and the possibilities of time" (2004a, 12-13), then some acts of speech create new spaces, new subjects of speech, new possibilities of time and new politics. In fact, politics is possible, he elaborates, since "there is speech in excess" of the presently sensible: this would be "a 'politics' of art which consists in suspending the normal coordinates of sensory experience" (Rancière, 2009b, 25). Those speech-acts in excess of the present do more than temporalize the matter and materialize a space: they say the unsayable, transforming nonsense into the meaningful to do justice to our lives. Rancière claims that this would be, as

¹⁷⁹ Again in contrast with Lyotard's notion of the *differend*, disagreement is an inner struggle of creativity. The "differend" assumes that incommensurable discourses are external to each other whereas in disagreement, the discourse of the powerful is put into question.

I will argue in the next chapter, not an ethics of response, but a justice without ethics—a poesis of mobility, moving beyond the line of the insensible to seek speech in silent things, creating matter by the force of words, and ushering the future that can(not) be sensed from behind the bars of the policed present.

Chapter 6. The Ethical and the Poetic: To Recognize a Wish-To-Say

The last chapter aimed to show that for Rancière even dead bodies can start a disagreement over the contestable line between the sensible 'we' and the insensible others among us. As their senseless presence is neither excluded, nor included into the public sphere of visibility and audibility, but marks the limit to our sensibility, their aporetic image may say something about *our constitution as a self-ruling community*. The present norms fall short of giving their image a place in the communal space because they are *characterized* as this space's borderline, and their speech does not have the authority of those equal before the law because *it is the law of our constitution that does not authorize their not being equal to their archived identities*. I shall illustrate these points in this chapter by reflecting on the speech of Percennius the slave in Ancient Rome. He helped the organization of a slave rebellion and his address is indicative of the situation of the people where they appear out of place, speaking out of turn signifying a wrong, injustice, and demanding a just response in the form of recognition. They are already recognized, and *misrecognized* as the weaker, the mute, powerless mob that cannot take part in politics. And they demand recognition of a past misrecognition.

In this chapter I will also further address the issue of recognition and argue that recognition is an act of speech that acknowledges and poetically investigates the silent figure that comes before the law, seeking words in this exposure to what is to come as a part of the 'we.' In other words it is not simply registration of emergent identities, as given by present norms of sensibility or as a part of the archive; the act of speech at stake also relies on substitution for and suspension of the norms of sensibility under which it makes sense. It reveals the misrecognition of the people as the sovereign 'we.' As such, it requires new norms and forms of thinking, acting, speaking, making sense and living that mobility of the people makes possible. The silent demand also displaces the archive of identities, indicates

aporias and reveals that the 'we' is a fiction only stabilized and immobilized by power. If we are rather characterized by mobility between identities, times and spaces, the act of speech of recognition aims to make room for others unrecognizable at the present and a new society to come. This chapter aims to argue that recognition in this sense takes on a futural character. It constitutes a movement toward the silent addressee unfettered by concerns of the present (truth, stable identity and judgment), and a movement toward the future.

In the encounter with the silent other that constitutes and displaces our self-understanding, the self is asked to recognize the situation; first, that it is the self that commits the wrong done to other and silences difference and otherness embodied by this silent figure; secondly, that this encounter is an assertion of equality between the undecidable figure that demands recognition and of its addressee; thirdly, that successful recognition would culminate in the acknowledgment of undecidability (of norms and identities) and a movement toward the re-constitution of society toward greater equality. In other words silent others call from the borderline between the present community of sense and a future society that will have been constituted by a gesture of the past re-iterated: once the act of speech is successful, the community of sense will have been re-constituted in such a way that not only others outside the community will have citizenship and constitutional rights, but also the oppressed others within the society will be in a lived situation of greater equality with the archived identities. To engage on a deeper level with recognition is to take it as an act of speech that is irresponsible to the present norms of interpretation, of acting and speaking; an act of speech, I will argue, that is performed in the name of a justice that goes beyond the normative understanding of recognition.

Wrong, injustice, response, and justice are all ethical terms, but although I take Rancière's thematization of equality as a part of his more ambitious project of problematizing justice, his is not an ethics of response to the Other. One of his keen readers, Deranty,

assumes that the defining gesture that sets Rancière's thinking apart is the rejection of alterity: "Rancière's 'heteronomic' logic of politics is not premised, as these latter accounts [that of Levinas and his followers] are, on an ethics of alterity, itself underpinned by a radical critique of Western Metaphysics" (Deranty, 2010, 10). In fact Rancière charges his mentor, Lyotard, with passive servitude to the unrepresentable, mute, victimized other before the life-giving Big Other, criticising "the way in which Lyotard [among others] ontologises otherness," (Dronsfield, 2008, 2), and refusing "to reduce *le compte des incomptés* to the marginalized or excluded" (Chambers, 2009, 1) that shocks the limited community of sense. Deranty draws the inference that Rancière's is a politics of recognition where the universal subject demands recognition (2003, 136).

If Rancière indeed "opens a path toward a progressive post-identity politics" (May, 2009, 3) does he aim to do so by releasing us from "the inescapable enslavement to the Other" (Rancière, 2004, 15) in the scene of recognition that 'shocks' us? One can suggest that the main theme that chimes through Rancière's understanding of ontology finds its articulation in "each party's difference from itself" (Rancière, 1998, 18) that structures political community of sense as one in which recognition and identity seem like a matter of mere normative force of policing by *partage du sensible*. Yet, otherness could also be understood as one's difference from oneself one should recognize, a notion which Rancière subscribed to in framing democracy as a relation to oneself as other. That implies either that Rancière's framework does not provide an alternative to the other-oriented ethico-politics of response and recognition or that the pull between his ontology and politics leaves a remnant that has a fair resemblance to otherness. Panagia tends toward this interpretation: "It is this unrepresentable, sublime element that is, for Rancière, the *sine qua non* of democracy. Politics, then, is distinguishable from the police by a constitutive unrepresentability that

interrupts the order of mimesis" (Panagia, 2006, 93). This occurs when one ceases to recognize oneself in an identity from the archive.

I shall argue, in this chapter, that, although both Panagia's and Deranty's accounts have some diagnostic value, they both miss the point of controversial anonymity of a self relating to and recognizing itself as an other in the suspension created by the address; 'the self' and 'the other' are not fixed positions in an address but anonymous place-holders in the historical situation. *Recognition is oriented towards the whole situation* where the self is also to recognize its dependency on the other. In a situation of violence, systematic inequality, and domination that otherizes the weaker, the stronger also need to realize that, in seeking superiority, they force themselves to live in the face of a constant threat, possible repercussion of violence, fear and unfreedom. The situation of hegemony is one that subjectifies both parties as others.¹⁸⁰

The recognition of the being-other of the self through hegemony is a necessity that the situation demands. Moreover, unless an act of speech re-constitutes the situation into one of equality, the self remains in its parochial understanding that it is an isolated, self-sufficient, sovereign individual independent from the other that, Rancière argues, constitutes it. It remains a stranger to itself, opaque in its self-understanding, limited, partial and closed to otherness. The denial of otherness which translates into the denial of the self, its innermost constitution and possibility, subjectifies it as an other. The self, when withholding recognition, turns into an other that cannot learn, share, understand or hear others, impoverished, and weak in its recognition of itself. And when it grants recognition it has always already acknowledged its being an other to itself that others reveal to it in this encounter. I argue that recognition always entails recognition of the self as an other through reflection, reflexive critique, and acknowledgment of a constitutive contradiction at the heart

¹⁸⁰ As Hegel puts it in his famous account of the master-slave dialectic which is the scene of recognition, "each does itself what it demands of the other, and therefore also does what it does only in so far as the other does the same" (1977, 112).

of one's self-identity that underlies the suspension of identification in the situation of address.¹⁸¹

What should be recognized, I will argue by drawing on Rancière, is a wish-to-say; as an act of speech, a wish-to-say is the act of being present before others to demand equality. It disregards limitations of the present, and enacts a scene of recognition of the situation.¹⁸² I shall first discuss the tenability of positioning Rancière as a theorist of recognition of identities, and offer an exposition whereby the speech-act of 'a radical other,' the address of Percennius the slave, indeed dis-identifies everyone addressed by his imagination that suspends the relations between meaning and truth. Rancière re-narrates the story of the people's movement to arrive at his notion of citizenship "in terms of the staging of a dissensus in which those who are deemed to lack speech make themselves heard as political animals" (Schaap, 2011, 23).

Percennius was one of the slaves who engaged in rebellion when the Roman emperor died. They withdrew to the Aventine Hill and negotiated with the councils. In Rancière's account they thus earn the recognition as rational members of society who can be reasoned with. In my account, Percennius the slave delivers *a speech that goes unheard and performs an act of speech that speaks in silence*. In truth the slaves were the mute, unrecognized addressee of the law that constituted them, not as parts of *demos authorized to rule*, but as insensible bodies ordered to labour, fight and die outside the community. Yet Percennius ignores that, envisioning another distribution of the sensible where they would be sovereign. Looking at the mob, the worn-out bodies of their fellow slaves, he saw what could not be seen at his present: the people that would make the law of the future. His speech-act was a wish-to-say that mobilizes the undecidability of the sensible that moves between the matter

¹⁸¹ Although it is hard to argue Rancière makes use of the Hegelian analysis, his examples suggest Hegelian undertones and themes regarding equality between the recognizing parties.

¹⁸² The situation consists of the 'there-is' as argued in Chapter 3. *Il y a* is the situation of address where the unrecognizable demand interpretation, an identity, and recognition.

and the ideal, the malleability of what is given and the plasticity of the body that can be identified as anybody. The next section will break down the elements of his *poesis*: a making by words. Percennius first unmakes his (collective) identity of a slave incapable of political speech and action, and makes a novel identity of one commanding language and people. He indeed assumed an identity from the archive, the most troubling one for democracy: that of the sovereign. The act of speech Percennius performed is possible as the silent visibility, Rancière will point out, is indifferent to identities.¹⁸³ Every poetic speech-act that wishes-to-say its silent history dis-identifies it in order to re-identify it as recognition, I shall argue, is both acknowledgment of a silent body that wishes-to-say, and an investigation into its identity. What it wishes to reveal is the fictive constitution of the 'we' that silences the people by a wrong of sovereignty that equates them with the self-ruling 'we.' Addressing the wrong, however, is not the same as recognizing *the seen in its/their truth and cataloguing its/their identity in the archive*. Being an anonymous body exposed to the meaningless forces of life, Rancière argues, it just needs a poetic re-interpretation that makes its meaning 'literal' to perform its undecidable character that moves between identities, sovereignty and submission, the sensible and the insensible.

Percennius ignores the address of the present law of the sensible, becomes irresponsible to and irresponsible in the eye of the 'we,' but whether that characterizes him as an excluded subject will be a question I shall raise in the next section. Percennius is not an excluded Other, Rancière assumes, but when the Other speaks, it dis-identifies with the representations in the archive, becomes unrecognizable by the law of the present, and foregoes the right to a shared life of the present in the name of a re-constituted community to come. It reveals the subject as an anonymous stranger in the community.

¹⁸³ The visible in Rancière's theory is dependent on the sayable that identifies and interprets it. A mute body can be anybody socio-politically, depending on the recognition granted.

6.1. *Recognizing the People*

One can interpret Rancière's aesthetico-political philosophy as a subtle post-Althusserian theory of tension between domination and liberation that take place within the contested space of equal recognition. Yet this interpretation would risk placing him in identity politics, half way between Habermas as a theorist of solidaristic emancipation (2002b, 161-162) and Lyotard as a theorist of irresolvable conflict and agonistic politics. I for one, read him as a thinker of agonistic politics, aesthetics of displacement, and free literarity. Deranty, reading Rancière as a "thinker of recognition who rejects the notion of understanding," suggests that "Rancière's fundamental political concern is the denial of recognition experienced by the dominated" (Deranty, 2003, 137). Newman subscribes to this account: "For Rancière, politics emerges when an excluded subjectivity –that part which remains uncounted, excluded from political life (the poor, the demos) –claims for itself the universality of a whole community" (Newman, 2007, 12). In this reading, the hegemonic political forces, legitimized by consensus, function like the canonical representations of society that only make certain social phenomenon recognisable, i.e., visible within the confines of the canvas and/or audible within the range of hearing. Here I shall critique Deranty's view that the ever-widening horizon of democratization grants recognition to the subjectivities that emerge in the public sphere.

6.1.1. *Recognition: The Subject as the Stranger*

In his interpretation of Rancière, Deranty highlights the way Rancière supports his theory of domination with an account of equality demanded by the dominated subjects that, in dissent, make their ways into the political picture through authorization of new sensibilities that disrupt the prevailing representations and precipitate their recognition. According to Deranty, the second ambition informing Rancière's project is to hear the unheard voice of the dominated to disagree with the hegemony that had denied them recognition as equal subjects endowed with reason. Deranty adds, Rancière's thoughts on democracy rises above "a theory of representation" (2003, 139) in its two senses, viz., representation of the extra-conceptual

(the matter, the given, the sensible) by the conceptual (the ideal, linguistic, the discursive), and representation of the masses by their political proxies. By contrast, Rancière may be seen as deepening the dilemmas of state-centred politics “unable to represent the interests of those who are denied social and political recognition” (*Ibid.*), as well as taking on board a radical methodological materialism that reveals the sedimented labour of language having a material nature and effect.

Accordingly, Rancière’s aesthetico-political theory from Deranty’s pen starts to sound like a revolutionary politics of equality. Transformed from “a political imperative into a methodological rule, that is, the rule that all individuals have the equal ability to express and defend their own rights,” (*Ibid.*, 140) the axiom of equality presumes that the dominated subjects can nevertheless represent themselves and express their desire for recognition. The dominated groups demand, and fight for recognition, maintains Deranty, within the parameters of the logic of the wrong, “the dialectical articulation of universality and particularity within the polis” (*Ibid.*). The *universal* subject position (“the subject of speech”), equally available to *others of the society*, i.e., any singular wronged party to articulate their *particular* demand of justice, becomes ground zero for the contestation of hierarchies engendered by “socioeconomic” differences. The gist of Deranty’s reading portrays Rancière as a thinker “who puts the notion of the subject at the centre of his political thought” (*Ibid.*, 136), attributing to him “a strong rejection of the death of the subject” (*Ibid.*, 141). In other words Deranty brings home by his reading of Rancière a disputable message that, after the demise of Marxist sociology and the revolutionary proletarian class, the subject of speech far from being deconstructed and dethroned, re-emerges universalized and embraced by all dominated identities unequivocally. According to Deranty, the vocation of the political theorist is thus to help them “pull down the barriers that exclude their speech from the

authorized forms of speech" (*Ibid.*) in order to include the perspective of the unrecognized subject.

However, these barriers are paradoxically those of the sensibility that constitute the subject of speech. Deranty argues that the term 'aporoi' denotes a collective subject, or a social group unrecognized as an actor by the socio-political order, but against him I argue here that it defers to the topology of a conflict that takes place on the borderline of a community of sense; the aporoi are the limit to the community. Accordingly, in my reading Aristotle misrepresents an outright political aporia regarding the conflict over the polis as an internal division within one policed mechanism that denies them recognition as equals, citizenship and sovereignty. While a conflict amongst the members can be resolved by justifications by the present norms of the community, a contestation over the criteria of membership initiates a debate on the founding norms of a political community of sense. The latter challenges the dominant principles of justification by the present norms of recognition, which coincide with the present principles of *partage du sensible*. Those who demand justice risk the illegitimacy of a subjective-position that displaces itself from the community of sense, being insensible and unrecognizable by the present norms. They are not heard as if they make sense when they challenge the norms of making sense. In other words the political conflict that the aporoi epitomized calls into question, paradoxically, the very standpoint from which it is represented—the limit to authority and identity of what is sensed and recognized to be the subject of speech. In contrast to Deranty's account, the subject of speech is deconstructed by literarity, not simply universalized.

I need to emphasize that this challenge is not done from outside the community, but from the border, by muted parts included as those who have no part and wish-to-say the unsayable: that *the people is a fiction*. Thus it is a challenge to the archive of subjects, the self of the community, and the norms of recognizability: its own deconstruction. It thus reveals

the subject as a groundless *fiction* in the making, not identifiable with those present. The poetics of justice over immobilizing normativity in this respect does not presume a given identity to be recognized, but calls into question “being together to the extent that we are in between—between names, identities, cultures, and so on” (Rancière, 1999, 63). It both exposes and affects our *mob-ility* from one identity to another. It dissolves the subject in an unrecognizable force of speech, emptying the identity recognized as the addressor, the law-giver, *the people that misrecognize itself as the sovereign subject*. In fact authority is suspended in this address, but this suspension, Rancière argues, is not the subject’s intervention into the norms of recognition, i.e., those of sensibility, but its dissolution in the symbolic gap of literarity: between the body and speech, the visible and the audible, the matter and the ideal, *and the self and the other of the community of sense*. This vertiginous effect of literarity is created by *the mobility* amongst the elements of the sensible, and the gap can be filled by any identity. Its principle is analogous to the formula: a body who is nobody can be recognized by anybody as anybody. Since any identity is a fiction, poetical work of recognition, the gap between meaning and truth about the addressee within the similar polemical, controversial configurations of political agency that resides within “the gap that separates subject and predicate” (*Ibid.*, 113) shapes the critical contours of what Rancière calls “literarity.” Its universality is *characterized* by contestation and its *undecidable character* ignores limitations, exclusions, and hierarchies that identify and recognize others through distribution of the sensible.

What follows from this presupposition is the attempt to “evacuate the foundation upon which every deconstructive... ethics is built: the (ethical) category of alterity” (Badiou, 2002, xxxv), not to resurrect the subject in universal disguise or dismiss *ethos as the self*. The *aporoi*, Rancière’s other, is thus an anonymous third party, i.e., a stranger materialized by the distribution of the sensible, by the fictive constitution of the people: it appears as an empty

signifier that, being indifferent to identities, “haunts the dialogue [between the self and other], [as] the confrontation with the Unknown...” (Rancière, 2009a, 39). That confrontation, I shall argue, is configured as mutual exposure between the body that has a meaningless sense and literacy that makes sense of it by poetic imagination that ignores the sensible.¹⁸⁴ Therefore the debate about otherness comes down to the confusion about the self reduced to the subject and reduction of the sensible to fixed identities otherized by the police, not a sublimity that forever eludes recognition, or the subject-oriented framework.

6.1.2. *Recognition: The Self as the Other*

On the account I am developing here, the other is a fictive subject-position in the address, an imaginary subject never present with its image, a remnant of the constitutive recognition of the people exposed to themselves as different. It also justifies only *ad hoc* reference to it as a subject of speech since it embodies but a “quarrel over the issue of speech” (Rancière, 1999, 23) that threatens its own sovereignty over the words, putting its authority at risk, and giving itself over to words that seek their addressee. Its image becomes unstably mobile in-between identities, communities and sensibilities. The speech of the addressor overthrows its image, its representation that cannot do it justice, and the constraints of the sensible. It recognizes its own body as somebody else, and the self as other. It thus dis-identifies and recognizes a body to the extent that recognition is a poetic investigation that *futurally* acknowledges (*recognoscere* in old Latin) a presence to come. Its speech also becomes available for re-appropriation by others, fatherless, anonymous, and hybrid. Defying the spatial distribution of the sensible that matches visibilities and sayable words in identities, it challenges the bodily arrangement of the sensible, and hence its own identity: “It is the age of hazardous subjectification, engendered by the pure opening of the unlimited, constituted from places of speech that are not designatable places but rather singular articulations between the order of

¹⁸⁴ The visible always needs interpretation, Rancière argues. And the body is encountered as the visible that is subject to interpretation.

speech and that of classifications" (Rancière, 1994, xviii-xix). In other words, the so-called universality revealed by disagreement is a *singular* articulation of the visible that (dis)identifies the addressor.¹⁸⁵ It reveals itself as an other to itself. In this sense it deploys the "the power to put into circulation more words, 'useless' and unnecessary words, words that exceed the function of rigid designation" (Rancière, 2000, 115). Unstable as it may, however, it performs an act, an act of speech that litigates, represents wrong, and demands justice against domination (which is always related to an unjust representation) as Rancière tells us in his account of *aporiai*: "The order that structures... domination recognizes no logos capable of being articulated by beings deprived of logos, no *speech* capable of being proffered by nameless beings, beings of no *ac/count*" (Rancière, 1999, 24: emphases original).¹⁸⁶

The constitution of the community¹⁸⁷ illustrates that Deranty was right to point out the material effect of a fiction, for the speech-act of disagreement aims to materialize a new community of sense where authority is undecidably both taken away from and re-invested into the people unrecognizable to themselves, never present with their representation, both fragile and equal subjects of speech, and subjects to the speech of others that wish to reveal their subjectivity as groundless domination. The people is thus split from within, always on

¹⁸⁵ Singularity belongs to the visible articulated by the sayable; it is an effect of the act. Cf. Butler's *Giving an Account of Oneself*, 2001a, 25, where she notes that "singularity has no defining content other than the irreducibility of exposure, of being this body exposed to a publicity that is variably and alternately intimate and anonymous."

¹⁸⁶ Acts of disagreement for Habermas, for instance, are to be overcome. Similarly, say, the Palestinians in Israel do not count as political subjects of the state. And in Nazi Germany "the jews," although citizens, were not equal to others before the law. In many countries, the demands of the LBGTQA are not heard as rational and justified claims to the future law as if they do not count as a part of the greater society. May makes the same point when he notes that "[t]he refusal to allow gays and lesbians to marry is presented as grounded in a natural fact: that marriage is between a man and a woman. This supposed natural fact generates the inequality of two sets of people before the law. If, by contrast, we suppose the equality of homosexuals and heterosexuals as speaking beings, this directly challenges their unequal treatment before the law" (2009, 6).

¹⁸⁷ Here a discussion of aggregative models of democracy may be relevant; in the Introduction I demonstrated that in Rousseau's theory a general will is formed by the sum of private wills. Likewise Habermas argued that every opinion and argument should count toward the formation of public opinion that is translated into a policy and the law. The shift from interests of individuals to their singular opinions is achieved through speech where rationality and persuasiveness of an argument, according to Habermas, should prevail over the numerary advantage (of a majority forming an interest group). When the "best" argument wins, it forms the general will and sways the majority vote of the society. Yet if some of us do not count as members of the society, or are not recognized as rational subjects equal to the majority, or their forms of expressions are not seen as speech, rational argument and persuasion, the aggregation turns into a wrong that points to a situation of unjustified power; i.e., hegemony of the 'we' over the people.

the move, tiptoeing the aporetic line that separates the sayable from a wish-to-say that will have formed a new 'we,' if heard and responded to. I shall argue in the next section that the aporia of the people constitutes them as mute sovereigns that undermine sovereignty by speech; they are mute (*soufflé* in French) as their speech is *stolen*. They do not speak, but *reiterate* the words of the sovereign that silences them, and doing so attaches the image of the sovereign to their body, leading to their identification and recognition as the sovereign. This fictive identification exposes the position of sovereignty in the address as an empty place, indifferent to identities.

6.2. *Recognizing the Sovereign: Mute Poet of the People*

Against Deranty's thesis that reduces demand for recognition to a claim of the subject

defending its interests, I am arguing that recognition is a poetic investigation that reveals the self's misrecognition of itself as the sovereign subject that sets the norms of recognition, the law that distributes the sensible into recognizable identities from the archive. These norms are constantly challenged by subjectless speech that destabilizes identities: literarity thus does not authorize anyone as the sovereign subject in the constitutive address that recognizes the addressee. Rancière in fact suggests that literarity voices the silent parts that have no part in the community of sense, but this is not the voice of a stable identity coming before the law to demand recognition: it is a "mute" speech in a sense that I explain below.

6.2.1. *Recognition as Misrecognition: Sovereignty*

The *aporoï* are constituted by the address of the law as the mute addressee, passive bodies that mark the line between the sensible and the insensible: they are presently identified as lacking intelligence to make sense of and articulate the sensible into an order. Being outsiders to the law inside the community of sense, *they were already recognized and misrecognized as the silent, insensible, subordinate*: as the slave, the enemy, the women, the gay, the stranger,

the refugee, 'the jews,' as an anonymous other among us who do not share or have the sovereignty.¹⁸⁸

For Rancière speaking had been wrongly considered to be the act of the *sovereign* subject, an orator, a master of rhetoric addressing the assembly, and the act follows it thanks to the *social force of the speech*, the authority of the speaker, instead of its illocutionary force. "The power of making art with words was linked to the power of a hierarchy of speech, of a relationship of address regulated between speech acts and defined audiences on whom these speech acts were supposed to produce the effects of mobilizing thoughts, emotions and energies" (Rancière, 2004a, 14). He does not hold the principle of policed sensibility that "kings had to act and speak as kings do, and common people as common people do" (Rancière, 2004a, 13); if the normative link between audibility and the archive of identities recognized and authorized is severed off, he reasons, the *aporoï*, the subject-positions that are seen as the mute nameless mob whose speech is "by definition without depth" (Rancière, 1994, 25) can be understood as having an authority to stage their own aporia.

They were assumed to be mute as their dissent was not authorized; not because they were unrecognized but because they were recognized *not to be political subjects of speech* that can distinguish between the just and the unjust: "For instance, Aristotle says, the slaves have the *aisthesis* of language (the passive capacity of understanding words), but they don't have the *hexis* of language (the active power of stating and discussing what is just or unjust). More generally, it is always debatable whether a sequence of sounds produced by a mouth is articulated speech or the animalistic expression of pleasure or pain" (Rancière, 2009c, 4). Given that they are recognized as brutes lacking intelligence, their speech is silenced by the authority of the norms that demarcate the sensible, identify them as the slave and dismiss them as not making sense. Yet if the wrong done to them cannot be addressed by the present

¹⁸⁸ This is our double, aporetic embodiment discussed in the last chapter that hierarchically structures the community that the 'we' cannot quite identify with as the people and gives rise to disagreement that questions the limits to the community of sense.

law that distributes the sensible and they are rendered mute, how can they speak and challenge the community of sense that identifies and recognizes them as mute outcasts within us?

The aporoi act like the sovereign in dissent. Rancière gives Percennius' address as an example of successful poetic speech acts that dis-identifies him with a dominated subject-position that *lacks recognition as an equal among us*. Their subordination is not predicated on exclusion from the system of sensibilities that *denies them any recognition*, and their coming into the sensible actually makes poetic use of the system that recognizes them as the insensible part of the community. Rancière explicitly refutes two premises of this gloomy vision of the vicious circle of exclusion, radical otherness and unrecognizability.¹⁸⁹ In Rancière's rendering of the problem, the issue of recognition is centred on the community's self-recognition as a stable system of identities that make sense by the present norms of sensibility. These norms constitute and police who has access to authority to address the community, what addresses make sense and who can say what. *Both constituting and authorizing the self of the community of sense, they form the sensibility conditions of an aporetic sovereignty.*

The point here is that the aporoi were and still are the limit to sovereignty, the borderline between what makes sense and nonsense, the line between politics of policed recognition and the aporetic political of the insensible. That is why the forms of speaking related to "the deceitful event of excessive speaking" (Rancière, 1994, 23) of Percennius in Tacitus' *Annals* that lead to the legionaries' revolution take place on the borderline of the sensible. They happen outside the public sphere, out of place and out of turn, but nevertheless *inside the community of sense*, during "an interval for the expression of grief or joy" (Tacitus,

¹⁸⁹ "1. Working class youth are excluded from the University because they are unaware of the true reasons for which they are excluded (*Les Héritiers*). 2. Their ignorance of the true reasons for which they are excluded is a structural effect produced by the very existence of the system that excludes them" (Rancière, in Ross, 1991, 61).

in Hort, 1882, 212) because the sovereign (their emperor) died. Percennius aims to talk like a sovereign who calls into question who can be the sovereign.

Parker renames the speech acts Rancière takes as exemplifications of disagreement: "For Rancière, then Tacitus records in his discourse a speech event impossible to imagine phenomenally as a historical utterance" (Parker, 2009, 253). These speech events form subject positions impossible for those who utter them to embody, but those bodies who "suffered enough...worn out with infirmities ...[and] covered with wounds" (Tacitus, in Hort, 1882, 212) cannot contain themselves, cannot contain the insensible demand for justice that breaks out. Their acts were not sensible as they were merely slaves, and their speech did not make sense because they were acting out of their character recognized as the slaves.¹⁹⁰

That is why I believe those acts of speech are not impossible (Parker, 2009, 253), but poetic, i.e. their felicity conditions do not refer to an authority, conventional norms of iteration, or the mere presence or absence of the unrecognized groups. What makes them possible is not so much the voice of Percennius that nevertheless, hopelessly speaks (because their revolution failed), as what the representative, Tacitus the historian does with his voice: "Percennius had no place to speak. Nevertheless, Tacitus makes him speak" (Rancière, 1994, 24). Percennius acts and speaks as if he was the law-giver that Tacitus subjectifies; in Tacitus' representation, Percennius the subaltern gains the problematic identity of the sovereign subject whose demand still reverberates as a claim to the future law. It is the effect of literarity that disrupts the identities of the sovereign and the subaltern.

In my discussion of Spivak's *Can the Subaltern Speak?* in the Prelude, I noted her conception of re-iteration in the double senses of representation (as signification and as speaking for) in the liminal zone between speech and silence, through the opening of the

¹⁹⁰ "By remonstrances or by sword, we may now obtain *relief*," (Tacitus, in Hort, 1882, 212: emphasis added) cries Percennius whose body had too much of injustice, excitement and fervour, "let everyone receive the arrears that may be due to him," referring to an anonymous soldier.

context to further re-interpretations.¹⁹¹ Tacitus' voice supplements, substitutes for and brings into visibility Percennius' silent presence in re-iteration of his speech in a context open to further signification. This operation that doubles voices is of the same order of historiology in the sense that the historian can find a point of entry to the secret history of the oppressed through it. Spivak defines the task as thematization of silences that nevertheless speak and I argue that this is exactly what Tacitus does with Percennius' silent address that mimics legislation.

The notion of law, especially colonial law, figures in Subaltern Studies more often than not as a discursive site of subjectification.¹⁹² And Percennius the subaltern is subjectified as the voice of the law by Tacitus: when the historian's operation of substitution negates his singular identity, he is elevated to the status of the Generalized Other in the Habermasian sense. He makes a demand; he threatens and promises; and he sets down a norm beyond the norm, as the sovereign subject being (outside) the law. He and Tacitus will be the co-author of the act of speech and thus co-authorities in the sense in which Agamben uses the term.¹⁹³ Percennius' act of speech is resumed by Tacitus as an authority that intervenes to make his address heard in the legal, rational discourse of sovereignty.

6.3. *Recognition as a Poetic Act of Speech*

The subaltern therefore do not speak their own language, but borrow the language of authority that condemns them, pervert it through the indirect and impersonal use (anonymous 'they,' instead of 'you,' or 'we'), and let the speech act speak itself outside the confines of

¹⁹¹ Derrida conceives representation as an act of substitution: "Representation regularly supplements presence. But this operation of supplementation ... is not exhibited as a break in presence, but rather as a reparation and a continuous, homogenous modification of presence in representation" (1982, 313).

¹⁹² See Guha, Ranajit, 1987; 135-66, 166-202 and 277-89 in *Subaltern Studies V*; Hardiman, David, 1985, 165-228, in *Subaltern Studies IV* and Baxi, Upendra, 1992, 245-264, in *Subaltern Studies VII*.

¹⁹³ In the sphere of private law, *auctoritas* is the property of the *auctor*, that is, the person *sui iuris* (the *pater familias*) who intervenes ... in order to confer legal validity on the act of a subject who cannot independently bring a valid act into being. Thus, the *auctoritas* of the tutor makes valid the act of the one who lacks this capacity, and the *auctoritas* of the father "authorizes" (2005, 76).

truth, identity and recognition by the mastery of Tacitus that lends rhetorical force to the arguments of Percennius:

"The indirect style, in practice disjoining meaning truth and meaning, in effect cancels the opposition between legitimate and illegitimate speakers. The latter are just as much validated as suspected. The homogeneity of the narrative discourse thereby constituted comes to contradict *the heterogeneity of the subjects it represents*, the unequal quality of the speakers to guarantee, by their status, the reference of their speech. Although [the *aporoi*] may well be the radical other, the one excluded from legitimate speech, his discourse is included, in a specific suspension of the relations between meaning and truth." (Rancière, 1994, 23: emphasis added)

How can we understand the "specific suspension of the relations between meaning and truth" as a state of exception where discursive norms are interrupted? In this context, what the *aporoi* achieve by paradoxical use of language is to bring down the distinctions of identity and norms of recognition that do not do justice to them in their image, and rules of language that stabilize reference to the sensible. The second step is to identify themselves as the owner of the voice of the authorities (Tacitus here), and imitate a citizen that has a right to speak and dissent exploiting the crisis of sovereignty that does the job of recognition: "If we ever mean to redress our grievances," as Percennius emphasizes, "what time so fit as the present, when the new emperor is not yet settled on the throne?" (Tacitus, in Hort, 1882, 212). In doing so, they claim sovereignty over words to paradoxically suspend mastery over language, point out what is common to them and the authorities as anonymous parts unrecognizable from another, and offer the speech act that reveals the linguistic abyss of identity. With the identities and distinctions blurred and destabilized through the anonymity of the subject of speech in interregnum (—Who sits on the throne? No one), indignation at political injustice (having no part in what they are a part of; inclusion into the society but exclusion from sovereignty, domination, and dismissal) is represented through the injustice of being recognized as mute brutes different to rational citizens that make sense in their speech.

Percennius' act of speech suspends both discourse and sovereignty in a "state of exception" paradoxically in order to re-instate them.¹⁹⁴

Thus the subaltern expose themselves to the addressee as unrecognizable others to themselves, being (in)different to the identity that silenced them through an earlier recognition; they also move from their position in the insensible by dis-identification that also re-identifies them poetically. The identity of the addressor thus shifts in time and space, over to other bodies three times: in the speech of the *aporoï* unheard by its audience that would legitimize and authorize their act, through its representation by the historian that situates the subject of speech legitimately within its rights to speak against itself for the purposes of justice, and in the account of Rancière who speaks for them. Their voices overlap, making it impossible to identify and recognize who it is that speaks and addresses us. This is a poetic act of sovereignty that still seeks its addressor as well addressee, wishing-to-say something about our present democracies and politics of recognition that ignore the mobility of identities and the mobilizing force of an address.

In other words, Percennius' act of speech is made discursive by Tacitus' non-discursive signification that poetically suspends the relations between truth and meaning in the ensuing paradoxes of futurity. Percennius speaks like the sovereign subject to address his situation that has already deprived him of sovereignty. If he is the sovereign his claim is not justified and if he is not the sovereign his claim is unjustifiable. And on the discursive level, his speech refers to nothing present: he is in truth not the Emperor who can address others in the terms he does. In truth his address is unheard, but paradoxically, in Tacitus' re-iteration we still hear it. His speech does not make sense to others at his present, and he was to invent the conditions under which it would have; if his act was successful (i.e., if his uprising

¹⁹⁴ "The structural analogy between language and law is illuminating here. Just as linguistic element subsists in *langue* without any real denotation, which they acquire only in actual discourse, so in the state of exception the norm is in force without any reference to reality. But just as concrete linguistic activity becomes intelligible precisely through the presupposition of something like a language, so is the norm able to refer to the normal situation through the suspension of its application in the state of exception" (Agamben, 2005, 36).

succeeded) he would already have been the emperor who had intervened in order to speak for other slaves and authorize rebellion. In other words, in the act he identified himself with his future self that he would have been had his act of speech been successful. He therefore differed from himself in the act and placed his identification within a gap between truth and meaning, between slavery and sovereignty, and between his past and future. The act of suspension here is a futural interruption of the (temporal, discursive, representative) order.

This speech act is poetic since it is about poesis, making an imaginary image through speech, an anonymous identity that seeks its conditions of materiality: *it envisions a body that wishes-to-say, that could be anybody, that is always on the threshold of being otherwise if heard*. What is of utmost importance here is not to recognize the addressor *truthfully*, but to invent conditions of meaning under which it can be heard as an address of the anonymous sovereign that questions sovereignty in his/her silence. And Percennius' address was silent: he does not speak but *re-iterates* the address of the sovereign he never was. Percennius' actual speech was not documented, and it is safe to assume, went unheard of. He is just envisioned to embody a silence filled by others' words: the dead emperor's, Tacitus', and Rancière's. He was a mute poet of the people. And "to restate Percennius' reasons is by no means to repeat them," (Rancière, 1994, 26) Rancière emphasizes, since no one can possibly know them, or voice them faithfully. Tacitus' representation does not document but *invents* those reasons in a manner analogous to "Principle of Actuality" in *Parole Muette* (Rancière, 1998, 21). Here Tacitus himself narrates a story free of concerns with truth and knowledge, creating the identity of a subordinated legionnaire, the allegedly unheard speech made by such a personage through speech acts (Rancière, 1994, 26). As a poetic subjectivity designed to the necessities of the speech situation, Percennius (as Tacitus), represents him briefly and paradoxically embodies the anonymous subject-position that wishes to say the unsayable: *that we, the insensible, are a part of the senseless 'we' that cannot recognize itself*. The

demand for recognition thus questions the legitimacy of the criteria of being a recognized subject of speech. Therefore, with the singularity of Percennius elevated to the collective status of class (a classless class, i.e., the subaltern), one finds the mobile, poetic element of speech in the anonymity of a newly designated subject-position of speech that can be taken up by countless subjects in the same situation as Percennius. Bereft of singularity, it is represented to be universal, i.e. unrecognizable in any identity or subjectivity.

The second discursive function that the representative achieves in his history is the universalisation of a conflictual position from which one can challenge a *partage du sensible* that silences one regardless of one's identity. Even though one cannot articulate an injustice done to one by a law of the sensibility that silences one, Rancière implies, *justice gets done through a series of (dis-)identifications that interpret and vocalize the silence of an anonymous body amongst us*. Even some of the identifications do injustice to the silent body that was Percennius, others gain the authority to point out his silent presence, speak for him in this way, and recognize the wrong that constitutes the community of sense. In lending words to transform his wish-to-say into a meaningful address, the 'we' can address the injustice through being otherwise. It can thus materialize a new community of sense where his silence makes sense. It can envision a new ethos, a new shared life where norms of recognition can constitute *anyone, and by extension, no one, as the sovereign*. It can even form a sensible democracy where one moves beyond the present norms of sensibility.

Rancière thus formulates those speech acts that mimic and undermine discursive sovereignty only to make sense the "place [discourse] gives, through its own agency, to what it declares to have no place" (*Ibid.*, 28). This is an act of justice that does not respond to the other that demands recognition in his/her singularity: although it mobilizes an anonymous body that appears before us, the 'we' responds to its own wrong, its own constitutive address as the sovereign of the sensible that makes its dominated parts insensible. It is *the community*

of sense that realizes it misrecognized itself through a miscount of the bodies, some of which have no ac/count. The silent other is indifferent to identities, or recognition; just an anonymous body that occasions this recognition through its wish-to-say, it marks the aporetic line between the sensible and the insensible, between the meaningful and truth, between the present and a future community of sense. The democratic task is to find words in its silence, to make the body of the mute poet speak through poetry.

6.3.1. *Recognizing a Wish-To-Say*

For Rancière the *aporoi* do not speak. They expose us to their silent wish-to-say something about us: that we misrecognized ourselves; that 'we' are and will always be other to ourselves. Their speech-act only offers a silent body to the literal movement between identities, between sovereignty and subordination, between silence and discourse. In other words, we are still at the constitutive moment of the 'we,' where subordination and sovereignty is tied together by the aporetic authority of the people that seek their representation. This is also a mute speech, stolen from others: Percennius steals it from the sovereign that mutes him; Tacitus from Percennius muted by him in speaking for him, and Rancière from Tacitus, acknowledging his theft. For the intelligibility structuring speech as meaning cannot be grounded in the presence, or the present norms of sensibility: we can make sense of an anonymous other who lived millennia ago in a different part of the world because of literacy. The force of the address is the senseless historical movement of a people that pursue their own law and sensibility through which they will have recognized themselves, and their speech seeking its addressee, regardless of the identity of the body that will have uttered them.

6.3.2. Recognition: Silent Image

When words are appropriated by a different body that reiterates them, their meaning digresses and undoes the relation between the visible and the sayable.¹⁹⁵ one becomes a body that speaks others' words, against one's identity. A performative contradiction thus comes down to wishing to speak the lawful language in order to speak against (*contra diction*) the law that silences. The people act out of their character when they contradict the self of the community, embodying a different meaning in their image, and being unrecognizable from the perspective of the present norms of recognition. They thus forego the present conditions of shared sensibility, and their place in the present community of sense. Detached from the bodies that utter them and exposed to others constantly re-interpreting them, the stolen words of this wish lose and regain their material conditions of meaning that unmake and re-make (*poema* in Greek) the community of the sensible. Performative contradictions occasion democracy where the people contradict their identity, become unrecognizable from the law's point of view, acting out of character to forge a new character from the senseless.

The poetics of recognition acknowledges a silent body we are exposed to and investigates into its silent meaning, identity, and situation. Democratic speech-acts prefigure the figure that would perform them, dis-identifying the subject of speech with the allocated image in the archive, and re-identifying them with the equalizing wish of democratic literacy. The plebs in Rancière's story voice an untimely demand from outside the limits of intelligibility, addressed from a subject-position invisible at the present time. They become intelligible subjects after the political act that changed the sense of their speech; the act changes what *it means to speak, to be seen and to be heard*. It changes the distribution of the sensible in such a way that we acknowledge we are exposed to a *silence* we need to make sense of. But before the success of their speech-acts, it was only a-wish-to-say that they were

¹⁹⁵ "By stealing away to wander aimlessly without knowing who to speak or who not to speak to, [literarity] destroys every legitimate foundation for the circulation of words, for the relationship between the effects of language and the position of bodies in shared place" (Rancière, 2004, 13).

the equal parts of the community of sense, a silent body on the borderline of the sensible that seeks its meaning.

The untimely and out-of-place emergence of a political figure that reconfigures political intelligibility thus also reverses the arrow of meaning, from the (un)intelligible toward the (in)sensible, towards *the body that wishes to say something in its silence about our policed sensibility*. An apolitical figure that changes the meaning of the political and derives its intelligibility from a law that differs from itself cannot be accounted for by the immediate presence mapped by transparent discursivity; it is “rather a body announcing another body that will complete it by making its truth corporeally present” (Rancière, 2004, 107) through the mobility between words that act like material things and things that bespeak of words. To tell the story of a subject to come in this sense is to make the sensible conditions under which it can appear and speak, and to materialize a world where the wish to unmake and re-make the law is fulfilled.

This is done by recognizing a wish-to-say in the silent body of the *aporoi*, and recognizing the wrong in our constitution that silences it. Exposure to and reception by an/other body that speaks like somebody we recognize in a hierarchically regulated context of speech and action does not exhaust the primary sociability. The history of the law, similarly, does not simply consist of a single command, the eternal return of the same when time is stopped by the sovereign; there is also a spatial rupture, displacement of bodies, separation and reunion of the visible with the sayable, and incongruous montage of the parts of the society unanticipated by the law (Rancière, 2007a, 60)¹⁹⁶ to imagine a new image of the body: *somebody* unrecognizable by the present norms of sensibility.

¹⁹⁶ “Between elements that are foreign to one another it [symbolic montage] works to establish a familiarity, an occasional analogy, attesting to a more fundamental relationship of co/belonging, a shared world where heterogeneous elements are caught up in the same essential fabric, and are therefore always open to being assembled in accordance with the fraternity of a new metaphor.” (Rancière, 2007a, 57)

An image is not pure visibility, but articulation of visibility, its poetic wordless representation that nevertheless speaks to us. "Essentially two things are meant by the order of representation. In the first place it is a certain order of relations between what can be said and what can be seen. The essence of speech in this order is to show" (Rancière, 2009a, 17) what can be seen. Out of Rancière's understanding of the image, I seek to give an account of recognition in terms of a wish-to-say. An image brings together speech and visibility without words. If "[t]he text's part in the representative schema was the conceptual linking of actions, while the image's was the supplement of presence that imparted flesh and substance to it," (Rancière, 2007a, 46) the visible remains mute (*soufflé*), and the sayable makes it talk and act, pointing out what can be seen. It *investigates into the sense* of the visible, which cannot be seen but imagined. Imagining, both limiting and revealing its aesthetic-political possibilities of the silent body tells us what it can do, say, feel etc. if recognized in *other ways*.

The muteness of the visible also implies that speech is not inextricably attached (or proper) to it: by literarity, it can escape its present conditions of utterance and move in a passage toward other bodies, toward other distributions of the sensible that may subjectify the body otherwise. Derrida also warns us that the muteness of speech that makes the body talk becomes 'spirit-ed,' that is, ghostly, animated, and spirited away, stolen (*soufflé*), leaving a trace of the addressor.¹⁹⁷ *This trace is left by the body's journey to its future image that shows what it wishes-to-say*. I mentioned that Rancière tracks down "the ability of a sensory community to grasp anyone and anything in poetic *wandering*, by going back over the route of the inaugural walk" (Rancière, 2004b, 20). The wandering of the letter, *poesis* that spins out of the control of the law experiments with the internal undecidability of the community's

¹⁹⁷ "Let us understand stolen by a possible commentator who would acknowledge speech in order to place it in an order, an order of essential truth or of real structure... all speech fallen from the body, offering itself to understanding or reception, offering itself as a spectacle, immediately becomes stolen speech. Becomes a signification which I do not possess because it is a signification. Theft is always the theft of speech or text, of a trace" (Derrida, 1978, 175).

ever-inaugural principles that can(not) be materialized by any image, for in Rancière's favourite example, the plebs borrow the words of the patricians "by constituting themselves ... as speaking beings sharing the same properties as those who deny them these" (1999, 24). The slaves with 'unintelligible speech,' "execut[ing] a series of speech acts that mimic those of" (*Ibid.*) the law-makers, exercise popular sovereignty and speak against the current regime of sensibility that distributes subjectivities, matches certain discourses with certain images and constitutes the society on the basis of the sayable/visible. They foresee and initiate a change in the political rationality. "For politics, in the modern era, has come to dwell in the very place which was ... the non-signifying, the non-representative" (Rancière, 2004, 13) and the transport at stake is the transfer of the words onto a different body, *a metaphor that recognizes and changes the* "immediate visibility of meaning in the sensory" (*Ibid.*).

6.3.3. Recognition: Imag(in)ing

Therefore, democracy, for Rancière, is not the space of justified speech animated by public meaning and agreement, but "the regime in which the law is given by the wanderings of the orphaned letter, in which it occupies the place of living discourse, the place of the community's soul" (Rancière, 2001, 95). The literarity of meaning, divorced from the presence it must refer to, is interpreted by Rancière to pave way to the poetics "of a speech that speaks by itself, that is forgetful of its origin and heedless of its audience" (*Ibid.*, 94). Its tacit "'self-referentiality' makes it available for anyone to use for his own goals" (*Ibid.*), disrupting the relation of authority set by the archive of identities and the public speech, "the way in which knowledge and discourse order visibility and establish authority" (*Ibid.*). "The democratic disease and literary performance have the same principle," Rancière explains, "namely the life of the mute-loquacious letter, the democratic letter that upsets any ordered relation between the order of discourse and the order of social conditions" (Rancière, 2011, 106). As opposed to the literal framing of the people whose senseless presence overlaps with

their sensible appearance, one may re-think the people along the line of *literarity of the image* that help their recognition through archived identities; the anonymous body as a poetic figure whose contours can only be sensed, recognized and made sense of through the figurative use of language that changes the meaning of what is seen and disrupts the archive of identities and meaning.¹⁹⁸

For there is more to an image for Rancière than a naked exposure to sight that speaks for itself clearly: image, Rancière suggests, indeed consists of “primarily operations, relations between the sayable and the visible, ways of playing with the before and the after, cause and effect” (2007, 6). The image is irreducible to the visibility of the body, or a passive material mode of being-there, an immediate presence that speaks for itself: “[t]he regime of visibility of the ‘immediacies’ of presence is still configured through the mediation of words” (Rancière, 2007a, 79). If the image is not restricted to the domain of the visible, “there are images which consist wholly in words” (*Ibid.*, 7) that reverse the causal order and temporality, visually recognize and represent what is not present or sensible. This brings us back to imaginative speech acts that recognize and identify a silent body. If words “by way of narration and description ... make something visible, yet not present, seen” (*Ibid.*, 12) they also break with the task of representing reality faithfully in that they “deploy a visibility that can be blinding” (*Ibid.*, 7), both resembling and dissembling, exposing and postponing the visible in the images they construct.

Therefore formation of an image frees the visible from the ultimate domination of speech in revealing its muteness in interpretation and malleability in formation (Rancière,

¹⁹⁸ “Words (re)arrange the visible in meaningful tropes” (Rancière, 2007a, 7). The figurative use of language displays how the meanings of words differ from themselves, and cease to coincide with their referents, or the concepts they express. Tropes are meaningful backfires of semantic operations, “no longer an illustration of thought ... nor the original mode of language and thought” (Rancière, 2011, 152), but “a rearrangement of its elements” (*Ibid.*) that, through the constructions of words and images, rearranges the sensible.

2006, 2).¹⁹⁹ It is revealed without an identity to be recognized, without a unique character to be acknowledged, without its given *singularity* (Rancière, 2009, 25) by standing indifferent to all addresses that recognize and misrecognize it in the images constructed. The free play between the nameless, shapeless matter and the identities bestowed upon it by the distribution of the sensible, thus places equality of all addresses operative on the silent body: "What the 'free appearance' of the Greek statue manifests is the essential characteristics of divinity, its 'idleness' or 'indifferency'" (*Ibid.*, 27). Yet she is not passive, wishing-to-say something about our gaze that makes her speak: that recognition is possible because any body is somebody else when addressed by a different gaze and each gaze equally constructs what it wishes to recognize in it. Seemingly, what Rancière wants to release politics from is the orbit of *inequality, passivity and singularity* that structures speech and action as response to the Other that *captures* us in its singularity, like a de-politicised, sublime work of art that is the Policed 'we,' or the ever-shifting mob that is the people. To conclude, any normative/regulative approaches to the image that comes before us, and before the law risks *de-politicization* of what is peculiarly political.

Conclusion: Recognition as a Poetic Investigation

I argued that Rancière's framework of recognition is not to be conceived, like Deranty does, simply as a claim of the subject to individual liberties, rights and state protection. Although Deranty rightly approaches the issue via the oppressed subjects voicing a demand that at present goes unheard, I suggested that his interpretation of Rancière risks situating him as a theorist of identity politics. In my reading, Rancière's account of recognition conceives dissent as a silent act of speech that suspends (disrupts) norms of discourse, displaces its

¹⁹⁹ Rancière emphasizes that the unrepresentability of brute alterity (of matter in this case) does not follow from the lack of a concept for what lies outside socio-linguistic institutes. It only sheds light to the excess of being that can make itself sensible in myriad ways, through many aesthetical strategies, within a constellation of socio-politically valid forms. It does not hint to the vulgar position that the real will always elude capture, or that due to the metaphysical nature of language, representation of alterity is bound with reproduction of the sameness. On the contrary, things materialize in and through representations, taking up on a discursive dimension. In a sense, Rancière merely reformulates the old Kantian maxim that the existent only appears under limitations, though the restraints are subject to under-determination since they are put in place by the aesthetical (dis-)harmony of representation.

subject and places it in others' discourse (Percennius is subjectified in Tacitus' discourse), demands acknowledgment of a wrong (i.e., misrecognition of the silent addressor), and makes both the addressee and the addressor *otherwise*. In other words, recognition is an act of speech that poetically investigates the situation and re-constitutes what is present in it discursively and by suspension of discourse.

Percennius' address disrupts relations of truth, identity, and meaning: the conditions under which the subaltern's assertion, identification and signification make sense refer not to what is present, or to the present, but to a possible future. Percennius' address is exemplary of the *aporois*: those who are neither absent nor present in our community of sense stage disagreement, first and foremost, to make their socio-political presence sensed and recognized. Percennius' situation illustrates the *aporias* of the political; the sovereign people cannot take parts in the constitution of the political situation and need recognition of their situation where they cannot exercise their sovereignty. Percennius' speech rather addresses us to his silent image substituted for, and supplemented by others' speech that subjectify, identify and recognize him; the others of the community too, when they do not have the power to make their demands heard, offer their silence to the people who may substitute their self for them in an act of identification, speaking for them, subjectifying and recognizing them.

More importantly, recognition is an act of speech that reveals the self as an other to itself; Percennius' singularity is both exposed and displaced by the literarity of his address that, through others' re-iteration, universalizes his subjectivity as an anonymous, silent presence. His address occasions the recognition of himself as One in a master-slave dialectic: it mainly signifies his self as a subjugated other who paradoxically refers to his possible future self as the sovereign. Tacitus, in narrating, re-iterating and appropriating Percennius' situation to address a wrong suffered by the slaves, recognizes and substitutes his own

subjectivity, words and speech for the silent image and unheard address of Percennius.

Tacitus *poetically invents* an other who is substituted for his self in the act of re-presentation.

In a metonymic move, his historical representation of Percennius undecidably becomes his own representation; Tacitus' makes Percennius speak, lending him his own subjectivity, words, and acts. He *identifies with him*, and recognizes himself in him—in an other substituted for his self.

Yet the series of identification, recognition and acknowledgments are, for Rancière, merely political. Rancière aims to dissociate politics from ethics, and *recognition* from the relentless “imperative dictated by the sudden encounter with the Other” (Rancière, 2009, 87) in his/her/its singularity, passivity, and (un)recognizability. Whether it is the unrepresentable Other of ethics of response, The State, The Police, The Father or passivity before the law, for Rancière, “the imperative” to respond to the stronger implies inequality between the addressee recognized in its singularity and the addressor that sets the norms of recognizability. Singularity too poses a difficulty for language (which necessarily operates in universal terms) and the law (which is impersonal and systematic in its treatment of those who come before it). Rancière emphasizes (with Lyotard)²⁰⁰ the necessity of disagreement and invention of a new norm/language game in order to recognize the subordinated others, but singularity for him is a discursive effect of literary identifications and not a substance subjects of discourse always already have. Singularity is only possible on the basis of creativity, of inventing a novel (i.e. singular) act of speech that stages dissent.

To summarize, Rancière implies that the Police justifies its norms with the present distribution of the senses in agreement with our singular identity captured and recognized, assigning a function, proper way of acting, speaking, sensing and being in a shared life to us

²⁰⁰ If it is the singularity of the addressee that should be addressed, Lyotard implied (Lyotard, 1988, 13), one needs to invent a new norm ethically and new phrases to respond to the situation. Habermas, on the other hand, as discussed in the first chapter, seems to privilege the “following the rule” as the only acceptable response of the addressee whose singularity should be a “private” matter (Habermas, 1987, 16).

(Rancière, 2004a, 12-13). Since identity, *any identity*, is constituted by an address that seeks its addressee, singularity too is a poetic effect of the address that identifies and recognizes the anonymous body by suspending the relation between our presence and its meaning. The body is again an exposure to the address that recognizes us as others to ourselves, but speech here points to its anonymity. And recognition does not only identify, but investigates possibilities of identification always mired in material conditions of misidentification and dis-identification where the distribution of sensible both limits and reveals what is it that we see. Poetics, here, bring together incongruous elements of the sensible together in an image, in hitherto unimagined ways to investigate and find words in its silence. Singularity is thus not that of the body, but of the poetic speech-act that seeks and envisions a new way of being under the shared conditions of sensibility deformed and reformed by it.

As I stressed above, the *aporoi* do not appear out of turn and place only to have their *singular image* recognized and recorded in the archive (which would be an applaudable achievement in and of itself), but also to mark the limit to our present, hierarchically-structured sensibility that cannot make sense of their silent presence among us as a sign of us being others to ourselves, not absolute sovereigns that control the itinerary of the address that make us what 'we' are.²⁰¹ This is a movement of the people poetically addressed to themselves as unrecognizable others to themselves and it is the policing force of the norms of recognizability that keep them in their places, in the hierarchical past of the archive.

Their mobility is the literarity of subjectless speech that dis-identifies in identifying its addressee, but unlike Habermas' ideal speech, it moves people from the position of a lawful selfhood to anonymous otherness constitutive of the self; from a policed sensibility to an imagined *ethos* and a new shared life. Although it is not ethical, it paradoxically aims to

²⁰¹ This is the primary sociability, understood as the senseless forces of a shared life that circulate without a final address or addressee. Its material effect is not predictable, or controllable by the present norms of recognition. Our present sensibility is characterized not by sovereignty over these forces, but by mobility between the sovereign addressor and the submissive addressee, identification and dis-identification, the insensible and the meaningful, the matter and the imaginary, the body and speech, the present and the future.

constitute an ethical community of sense where speech reveals we are strangers to our self. Recognition is the act of speech that exposes us to others constitutive of us and to ourselves as others. It involves a demand for the acknowledgment of the situation of address (as structured by violence, unjustified power, and inequalities), self-recognition (recognition of the self as an other and others as constitutive of the self), inventing new norms, acts, speeches and a future of greater equality. What comes before 'us,' before the law and before others is an anonymous body that still seeks its possibility conditions, on the aporetic line between what is present and what is to come. I have argued that it demands a poetic re-interpretation that articulates its 'literal' meaning to perform the aporia that brings together sense and (in)sensibility. It embodies a wish-to-say that can be materialized if heard and responded to with an act that re-constitutes the community of sense. It is *futural* in the sense that once we respond to it, it will have already been one of us in an "otherwise" society.

Chapter 7. The Ethical and the Poetic: Wish-to-Live

The last chapter aimed to show recognition is an act of speech that reveals 'we' are others to ourselves. For Butler, too, the other appears as a concealed difference of the self one forced to disown its debt to the other by the constitutive address of subjectification so it can be the sovereign. The problematic constitution of the self distinct from the other, however, also offers a promise of a shared life as somebody identified in the archive of bodies and a threat of death in life as a nobody. We respond and attach to the addressor as we have a wish-to-live in a shared life even when we are constituted as the foreclosed other, but this attachment is always troubled by what is included as the excluded. Butler thus aims to offer a solution to the aporia of recognition when she frames identification also as *dis-identification*. Here the self both disavows the other as 'Not-I,' and preserves it as a foreclosed norm that continues to define one's identity silently, in unacknowledged negative terms. This norm is unspeakable if the fantasy of the self-sufficient, secure and independent self, i.e., of sovereignty, is to be efficient and have material effects. However, I shall argue that 'the sovereign,' for Butler, is an empty signifier that can be 'filled up' by anybody; it does not refer to any identity, but defers us back to the contingent authority of strangers in the past that established a speech-act's success conditions to constitute, identify, and recognize a body as somebody in the archive of the 'we.' And since the foreclosed other is *not* simply excluded from the community but included in it as the inner limit to the norms of recognizability, it can appear among us as a troubling stranger, a queer body insensible at the present that talks and acts like a sovereign member of the society because the sovereign is a stranger.

In what follows I shall develop the argument that the *queerness* of our constitution both forecloses and authorizes the scene of recognition where the sovereign self and the foreclosed other meet *time and again* to address and recognize each other as strangers in a shared life through words borrowed from unidentifiable strangers with obscure origin. The constitution of us all as strangers is not ontological, but historical: we are troubled by a past

that sets limits whilst constituting us, our socio-political world, and possibilities of response without asking for our consent, agreement or response. It *conditions* us in both senses: the law is the possibility condition for us to act, speak, live and share a life with others, but it also limits our responsibility and possibilities of response. I denote the necessity to adjudicate those conditions with the term 'wish-to-live.' The subject of the wish-to-live is not the sovereign self which is conditioned on a refusal of acknowledgement and sociability to the foreclosed other. The recognition of strange otherness within us, acknowledgement of our constitutive debt undermines our sovereignty, and that is why their emergence troubles us, and causes an emergency we do not wish to respond to at the present.

In the first chapter I traced in Habermas' theory how speech is in excess of its function of conveying information and sets up the scene of recognition.²⁰² The strangeness of the 'me' that addresses itself as a stranger, or the abstraction of the 'we' into an unidentifiable Generalizable Other signifies *more than anonymity*. It also expresses an enigmatic excess of *being (outside) the norm*—incongruity, performative contradiction, a split within the individual self that becomes a stranger to itself, and within the collective self of the community (the 'we') that also appears as 'they.' It creates an *incongruous excess of obscure origin* that I refer to by the queerness of our constitution. The gap between the people and the Generalized Other, between "me" and "my character" creates a tension of recognition, a form of semantic *stress* and political struggle, and an inner contradiction that binds sovereignty and otherness together. Both the Generalized Other and the character exceed the subjects they refer to, with an enigmatic identity that exceeds reference, representation, discourse, regulations, limitations, and the present.

²⁰² The transmission of norms is performed by significant others, who re-iterate the speech-acts of others from whom the 'we' inherits the normative structures. In the situation of address that also subjectifies, speech is in excess of the present too. That is, the subject or significant others are not present (Habermas, 1987, 35); the subject learns to relate to itself as a third party, "me" as "him/her" that it will have been, in the address of the 'we' that identify with "them" that has appeared as the Generalized Other.

Drawing on Lyotard, I also argued that the encounter with the excessive being of the law displaces the subject and places it outside itself as an excess constituted by stress, conflict, and contradiction.²⁰³ Excessiveness on the individual level is inherited from the collective level.²⁰⁴ In other words, the subject is born out of an unrepayable debt to the law, as embodiment of *guilt* because the excess – the sovereign, that is, the Generalized Other, as well as the character – is constitutive: the law, the possibility condition of a shared life, gives life to the legal subject “I” and the person of ‘me,’ its duties and responsibilities as well as rights (*Ibid.*), placing it within the ‘we.’ The unpayable debt, however, comes with the ontological guilt; the subject is guilty of having a character that displaces it from the ‘we.’ The singular identity is the site of recurrent conflict with and violation of the norm of subjectification, but as I will argue, this future-oriented, lawfully lawless, innovative excess of sovereignty is also the possibility condition of change.

In this chapter I shall argue that the aporia of recognition has less to do with mutual recognition of persons, subjects, and identities that encounter and address each other in their (un-)recognizable presence than the mutual address of two temporalities, two bodies of the people that share a life. I shall first formulate recognition as a struggle between two strangers, i.e. the sovereign ‘we’ and its foreclosed others. I will illustrate our queerness and sovereignty in Butler’s *hauntology* where the bodiless addresses from the past constitute and recognize a body as somebody among us in differential ontologies. In recognition, speech reiterates the contingent authority of strangers underlying the success conditions of speech-acts

²⁰³ See Chapter 2, the section titled *Differend: Il y a or ‘Wstawać’!*.

²⁰⁴ Santner calls subjectification by the excessive being of the voice of the law “ex-citation” (2001, 31) of the subject; the subject is “charged”—with excessive energies, as well as with a symbolic crime. The representative crime for Habermas consists of having an excess that hinders unification with the ‘we,’ a strange and private constituent of identity that is (outside) the norm of the subject. In having a singular character the subject contradicts itself, becomes otherwise, i.e., *a stranger to itself*, and constitutes itself in contradiction to the law; i.e., the subject embodies a performative contradiction that strangely places it outside its community. But as this is also the gesture that has already constituted the law and the society, the subject paradoxically identifies with what it dis-identifies with. In my re-construction of Santner’s argument, the ‘me’ becomes the foci of a stress and excitation in the face of threats (of sanction) and promises (of recognition) that shore up the constitutive address.

of constitution and forming a fragile, ambivalent social bond amongst the 'we' as the archive that forecloses some lives; The "'we' is always and only a phantasmatic construction ...which denies the internal complexity and indeterminacy of the term and constitutes itself only through the exclusion of some part of its constituency that it simultaneously seeks to represent" (Butler, 1990, 142).

Butler's hauntology is pivotal to my thesis. If the 'we' as a representation is constructed by an act of speech that grounds its legitimacy, Butler's "task is to interrogate what the [ontological] move that establishes foundations authorizes, and what precisely it excludes or forecloses" (1995, 39). The social bond of recognition subject to re-iteration, Butler argues, is haunted by what it forecloses. Those who are denied the sovereignty of the 'we' re-enact the moment of constitution in their dissent and demand recognition and inclusion as equals. The struggle treads the aporetic line between attachment and detachment, between death and life, between the queer and the sovereign, between the past and "a future [founded] through a break with that past" (Butler, 1995a, 159) re-iterated.²⁰⁵ Her reading of Sophocles' *Antigone* compels the dualities above into a productive crisis where the sovereign and its other struggle over socio-political transformation and constitution of a future society. Antigone's act of speech not only reveals the contingency of the social bond that can always be subverted and re-articulated, but almost materializes "the aberrant temporality of the norm" (Butler, 2000, 29) that regulates and maintains it.

Antigone, as Butler interprets her, demonstrates recognition as a struggle between the sovereign and the other bound by the social bond. Her address calls into question the sovereign's founding act and the norm of the society (i.e., kinship) through its performative, aporetic act of speech that reveals the unrecognizable excess: if the reification of certain socio-political practices as norms results in grids of intelligibility that define "the parameters

²⁰⁵ Hence our constitution must "be left permanently open, permanently contested, permanently contingent, in order not to foreclose in advance future claims for inclusion" (Butler, 1995a, 41).

of what will and will not appear within the domain of the social” as the recognized (Butler, 2004, 42), Antigone brings into sensibility the unrecognizable excess—the enemy, the familiar as the stranger, incest, treason, civil disobedience, and other practices the absence of which normatively constitutes in negative terms and sets the limits to the community of sense.²⁰⁶ Killed by his own brother and exposed as the defeated enemy by his uncle, Polyneices too lives the life of the familiar and dies the death of a stranger still related to the familiar by the force of the social bond.²⁰⁷ He embodies the stranger that the brother is, and the strangeness of our constitution that denies social bond to the unrecognizable excess constitutive of the community.²⁰⁸

Antigone inherits the strangeness from her brother, and from the constitution of her society. A fragile social bond links the body that Polyneices was to that of Antigone who demands recognition for her brother and for herself; he is my flesh and blood, she offers by way of explanation, as she takes the place of Polyneices in a social death that renders her an ambivalent link in a chain of representations. Her body becomes its metonymic proxy, the representation of the unrepresentable excess. She in Polyneices’ place demands recognition as a citizen whose address must be heard as if voiced by the law-giver. Although she becomes a stranger to her family, her society and herself, she dies in defence of a future community that includes what it forecloses. But she continues to address us. Seeking an answer why Antigone failed to tip-toe this line of survival, I will relate the social bond to the co-presence of a promise and a threat in a troubling address of the future foreclosed by a strange past.

²⁰⁶ My interest here is how the familiar, the familial, and the lawful are revealed to be also the strange, the stranger, and the contestable.

²⁰⁷ The social bond is the ethical necessity to relate to others as if they are constitutive of the self.

²⁰⁸ Polyneices (who led an army to his home city) is the blood and flesh Antigone’s, who is ‘closer yet in blood’ to Creon who, as the law-maker, decrees that his dead body remain exposed in the battlefield to mark the boundaries of the community of the living. Yet his body, far from representing an external threat to the community that must (re-)constitute itself in opposition to it, becomes entangled in an aporetic relation of (in)visibility to the bodies it comes to be detached from by the norm.

In other words, the aporia of recognition is transfigured here from recognition of identities into the promise and threat of *socio-political transformation* as two temporalities of the political meet at the present of a shared life; the strangers from the past who have always already constituted us and the strangers from the future (the unrecognized at the present) who will have always already constituted us address us. They both have a wish-to-live; they promise a shared life. They both survive outside their time; their origin, though obscure, refers to a past that has (never) been or defers to a future that has yet to be. They share a life at our present, within our shared life.²⁰⁹ The obscurity of our troubled times (the present as the site of the conflict and dialectic between the past and the future) can be the answer to the aporia of the people where the emergency of the emergent lives is traced back to the emergency of the contingent authority of the past that constituted the socio-political world by an excess. The present appears as the obscure time where the norm can be found already included in a past that foreclosed the future that would have troubled it but *it has a wish-to-live: The foreclosed survive, just like 'the jews'* and the situation of the present continues to make a demand on us. If the present is politically promising precisely because of the conflict between the past and the future, 'we' ought to address the present situation by recognizing its demand, and addressing the past to the future.

7.1. *Strange Lives: Queering the Sovereign 'We'*

In this section I will argue that the 'we' is constituted by the strangers from the past that recognize us. Recognition for Butler is performative – 'done' through the same impersonal norms that identify and subjectify us, though those norms are lived in a tension, thus negotiated, challenged, affirmed, or subverted through the life of the subject that come into life after its body is placed in a shared life as somebody. Subjectification takes place before the appearance of the subject, through naturalised discourses that anticipate its birth into a socio-political world always already organized by categories that, through unmentioned

²⁰⁹ To wit, the people are *also* the 'we' and the 'me' is *also* 'my character' 'I' embody at the present.

prohibitions, confer on us an identity as a part of the 'we.' Although it enables one to think, feel, talk, act, and live as a responsible subject we recognize and respond to accordingly, one becomes a socio-political agent through this subjection that one is not responsible for: "Subjection consists precisely in this fundamental dependency on a discourse we never choose but that, paradoxically, initiates and sustains our agency" (Butler, 1997a, 2). This dependency, I shall argue, is both subjection to strangers, and subjectification of ourselves as sovereign strangers, caught between an obscure past of the people we did not choose, and a fragile future we cannot respond to alone.

7.1.1. *The Strange Constitution of the Sovereign 'We'*

On the collective level, "sovereign" refers to the legal subject and the subject of legislation with juridical power, i.e., the state as the collectivity of subjects. One becomes sovereign and a part of the legally-demarcated 'we' through the address of the law that subjectifies; one is included into the society as a subject – with rights, duties, and a recognized identity—who *can* speak and act politically, take part in legislation and other political processes. The power invested in one as a viable sovereign subject who has the permission and capacity of political action is acquired from the addressor's sovereignty: the archived 'we' as defined in the Constitution as a representation that is substituted for the people and forecloses the socio-political presence of others, mainly the foreign subjects, refugees, and the *aporoï* as strangers in their home country. The people are not equal to the 'we'; the latter also has an undecidable excess—strangers in and outside the country.

On the individual level, "sovereign" refers to the one who can decide, choose, act and speak on one's own. Yet the constitutive address of the sovereign subject defers to others' decision, choices, norms and discourse that enable, regulate and limit the subject's sovereignty. The subject, in order to be part of the sovereign collectivity, needs to have recourse to others' power, norms and discourse that neither originate in one's self nor can be

located in one's self-understanding. The subject's power to act and speak is derivative of the power of the collectivity that subjectifies one. This address of strangers, therefore, displaces subject and places its possibility conditions of action, speech, and understanding outside it—into a subjectless discourse and universal representations that one cannot recognize one's *character* in. Having been constituted by strangers from whom one derives one's sovereignty, the subject recognizes itself as a stranger in them as it also has a *singular identity* in excess of these universal representations. Thus one is not equal to the subject; the latter also has an undecidable excess—a strange character in opposition to the universality of norms of recognizability.

Butler casts this lived conflict of recognition between the sovereign 'we' and foreclosed others as the primary scene of continual subjectification of a body as somebody *performatively* where recognition as an address needs to cite the shared norms of recognition that articulates what is seen into what can be said about it. Just like the distribution of the sensible, the norms of identification define "the very meaning of what counts as a valued and valuable body in the world" (Butler, 1993, 22): it is an address that makes sense of the body, but the initial address of performativity that identifies, subjectifies and recognizes a body as somebody among us precedes the addressee and is done by strangers we learn to live with: the 'we.' The doctor that genders the newborn initiates a chain of signification that both constitutes what it *means* to be a bodily subject and recognizes bodies by those norms but through our lives we are addressed by everyone who articulates our body as somebody. As "there is no recourse to a body that has not always already been interpreted by cultural meanings" (Butler, 1990, 8), this is a silent placement of the body into a figure of speech materialized by constitutive speech-acts, an indeterminate figure of speech deployable in political discourse (*Ibid.*, 90-93), a *phantasm* that is body (Butler, 1993, 66). Being somebody

displaces the subject, exposes it²¹⁰ to others' address, gives it a life outside itself, inside the normative grid of recognition that structures a shared life. It gives the name of a *stranger one becomes when addressed by strangers we are born amongst*.

The speech that addresses the silent body of the baby is thus *very strange* and the strangeness at stake is inherent in the *temporality* of norms of recognizability that have already identified forms of life; I shall argue that although these speech-acts tend to foreclose and delimit possibilities of response, they are open-ended and subject to re-iteration where the subject may have an effect on these representations. Butler maintains that lives are only recognized and legitimized to the extent that they can be represented as autonomous subjects by a *signification* (from others) that has already had materializing effects on our lives *before we are born*; i.e., discourses and other socio-political practices that affect and mark a body as real, intelligible and significant to the community (Butler, 1993, 14), without asking for our opinion, consent, or response. The heteronomous constitution of autonomous subjects is signification done in the *before, in silence, by strangers, in our absence* to recognize a body as somebody that we will already have become once addressed.²¹¹ These speech-acts constrain lives performatively in the sense that they construct and enforce the matter of community; i.e., practices they describe as forming a life intelligible to even others we never meet living under the similar material norms of the society (*Ibid.*, 32). Through these norms, a body is materialized and recognized as somebody whose life matters as long as it acts, talks, feels, and lives like the stranger it is named as. But the 'we' is strange since its birth, or since we learn to talk:

[S]peaking is always in some ways the speaking of a stranger through and as oneself, the melancholic reiteration of a language that one never chose, that one does not find as an instrument to be used, but that one is, as it were, used by, expropriated in, as the unstable and continuing condition of the "one" and the "we," the ambivalent condition of the power that binds. (Butler, 1993, 242)

²¹⁰ The subject is both 'one' and 'it' because it is a person as well as a representation.

²¹¹ Hence the baby does always have tag in pinks, or blues picked from the archive of colours so that even strangers on the street can tell its gender and address it as a girl/boy when they see its body without even talking.

In other words the norms of recognizability are speech-acts with success conditions established by strangers in the past that formed the archive of possible identities that make up the 'we,' and one is addressed from the *before* to re-iterate words of ghostly strangers when one speaks, acts like them, perform their lives through and as one's own life. Strangeness of speech dissolves the materiality of the body political into material conditions of constitutive speech-acts that identify bodies as somebodies in our society. But why does one need to live the life of a stranger and what is the power of the norms of recognition? For Butler, one is attached to one's name and the identification that comes along with it as it gives one a life as a recognized subject in a shared life: "the subject is the effect of power in recoil" (Butler, 1997, 6) and this is the illocutionary force that expresses the basic sociability we are subjected to, the excessive power of the addressor, the socio-political power of the 'we,' the promise of life/threat of death. Although the authoritative address that names could be subordinating as in 'You, slave!', one is identified with it because it promises and threatens, just like the enigmatic voice of the law that promises a shared life of love, friendship, and recognition and threatens with exclusion, violence, and actual or social death in Habermas' theory. By the power of this address one becomes the name one addresses oneself with: norms are *not internalized, but re-iterated by an 'I' that will already have become itself when it addresses in heteronomous terms and recognizes itself as a stranger that has a wish-to-live.*

A wish-to-live is an act of speech that negotiates the lived conflict between the universality of norms and singularity of the subject of the act. The norms may be unjust, authoritarian, oppressive, violent in their misrecognition of one's character, but one nevertheless needs to rely on them in order to critique, subvert, and change them. That is because the possibility of life as a subject is predicated on recognition by them, even in subjugating terms, as a viable subject in society; a shared life offers resources for its critical transformation by subjects who partly place themselves within, taking up its norms, and

performing even subordinating identities subversively: Butler's example of resignification is that of the gay willingly embracing the name 'Queer.' Here, the wish-to-live mobilizes "the possibility of a repetition which does not consolidate that dissociated unity, the subject, but which proliferates effects which undermine the force of normalization" (1993, 93). Reliance on unjust norms that constitute and misrecognize one also implies acting and speaking in accordance with them, which nevertheless has the potentiality of subverting and transcending them.

7.1.2. *Re-Constitution by Strangers: Performative Re-Iteration*

The constitution and misrecognition by the oppressive law also give one the power to be a part of the 'we': a slave's life is better than being in a prison, being no one, being *Wstawać!*, or being dead.²¹² But more importantly, one becomes a self in a relation to others one loves/hates, responds to, and (dis-)identifies with. They are strangers that one does not choose to live with, but are addressed by in terms one does not sovereignly dictate, having been thrown in a shared life ruled by norms that precedes one's body performatively constituted, identified, recognized and animated as somebody by them. Benhabib, however, is convinced that Butler's theory of performativity "still presupposes a remarkably *deterministic* view of individuation and socialization processes which falls short of the currently available social-scientific reflections on the subject" (1995a, 110: emphasis added). The heteronomous formation of subjectivities for Benhabib rules out universal ideals of autonomy, choice, self-reflection and self-determination which are necessary resources for the emancipated life of the subordinated/excluded groups unthinkable without them (Benhabib, 1995b, 21).

Against Benhabib, I argue that performativity does not imply a life whose trajectory is predetermined by the past of the norms since, "in living my life as a recognizable being, I live a vector of temporalities, one of which has my death as its terminus, but another of which

²¹² One may and at times ought to choose death over life, but subjectification, to repeat, precedes the subject. Even in order to subvert, or overthrow one's misrecognition as a possible subject requires performing it.

consists in the social and historical temporality of the norms by which my recognizability is established and maintained" (Butler, 2005, 35). The double embodiment of the 'we' as the strange people that wish to live and a sovereign community that decides what is life and who gets to live what life, enables *narration of a life lived under the restraint of norms that have a life of their own*. This in turn is how others make sense of and respond to our life. But the relation between the addressor and the addressee is always troubled by a promise and a threat of strangers as we will see in the next section because *the strange power of speech can bind, unbind and re-bind us*. One's life is thus lived in the historical scheme of making sense provided by the past of the representative norms of recognizability, but recognition works because it is misrecognition of the addressee: it relies on a silent *fantasy of the self as other*, the child's imaginative identification with a *stranger* from the past that others tell her/him that s/he is. *This shows that initial recognition is a failure as an absolutely binding, determining power of the sovereign addressor that subordinates, because it is precariously dependent on the child's performance as a stranger to him/herself as well as performativity of speech*. For recognition to work, it must fail: "[i]t would have to be a recognition that fails to capture the other" in an identity (Butler, 2010, 85) by the binding power because it also unbinds the addressee from others s/he dis-identifies with by the address.

Performativity does not simply boil down to repetition of words borrowed from sovereign strangers we owe our agency to: neither is 'being constituted' the same as 'being determined' (Butler, 1990, 182; 1995b, 46). All categories of sovereignty, i.e., subjectivity, agency and being *somebody* are thus performatively constituted by the very expressions that are said to be its results but the subject is *not* constituted once and for all by signification that constitutes the possibilities of agency and marks a life as lived autonomously.²¹³ That is "because signification is *not a founding act, but rather a regulated process of repetition* that

²¹³ The moment one breaks with the norm of autonomy, paradoxically, requires autonomy of a heteronomously constituted subject that submits oneself to the norm of others. The 'self' of the 'self-rule' becomes an other to itself in change.

both conceals itself and enforces its rules precisely through the production of the substantializing effects” (Butler, 1993, 185; emphases added) that constitute and recognize a body as somebody.²¹⁴ Because “historicity of norms” underlies the performativity of the act (Butler, 1993, 140), unless the historical authority invested in the signification that serves as the universal norm is invoked in marking a body as somebody and giving an account of a life, it will be immaterial.²¹⁵

When the norms are unjust, they need to be taken by the subject jeopardizing its own being (or coherent identity), submitting itself to the norm one disrupts by what Butler names “the art of voluntary insubordination” (2001b, 12). Given that a life not recognized and situated within the greater context of a shared life would amount to a social death, the norms of the past foil the claims to autonomy in their universality that offers a choice between death and survival through an attachment to the normative domination, subordination, violence and inequality. In other words, living a life of one’s own entails appropriating and practicing the historical authority of social norms one did not author: it is living the life of a stranger we cannot be responsible for, not of the sovereign subject that can control the response to the life-giving address. The agency turns out to be the power of past norms that one acts as the agent of. And if this power subordinates, excludes, silences, effaces and reduces some-body to no-body, this power can be turned against itself by re-iteration because the sovereign addressor is a stranger that could be any-body: the sovereign, being (the excess outside) the norm, can (un)make the norm, just like the ‘founding fathers’ of our constitution. Civil disobedience in fact discloses how precariously the norm binds us.

²¹⁴ Butler, in this passage, in fact refers to and subverts exactly what Habermas registers by the performative attitude towards norms (Habermas, 1996, 488): agency as being somebody is the self-fulfilling belief that the life provided by norms must be lived ‘out of respect’ for the law that rules a shared life as one’s own life lived by one’s own norms.

²¹⁵ A life unrecognized by the norm will be insignificant, unintelligible, unmarked and *not affected and responded to* as a part of the shared life that has a recourse to its historical norms of intelligibility to recognize it as a life.

For Butler, sovereignty limited to strange figures from the past needs rearticulation in socio-political material conditions of the 'we' that historically change by "queer re-signification of the symbolic to expand and alter the normativity of its terms" that makes visible our strangeness (Butler, 1993, 111).²¹⁶ 'Queer' is the name of some strange, enigmatic bodies that challenge the present norms of intelligibility from its limits that conceal its strangeness: a queer body is unperformable in a shared life at the present, because the norms of speech-acts that articulate bodies into somebodies operate on the exclusive base of heteronormativity. A body which is neither 'man' nor 'woman' is excessive—it is nobody as it cannot be identified with anybody in the archive of the strangers from the past. The strangeness of our constitution by strangers in the past is thus again, Butler claims, both a condition of and limitation to our bodies being performed and recognized as somebody. Yet, although it gives us a life and recognition as a stranger, some strangers are excluded and recognized to be outside these limits of a shared life of responsiveness and affection as their bodies and ways of life contest the authority of norms that constitute those limits. The queer embody a foreclosure of the power of the socio-political that also materializes "a set of disavowed attachments or identifications that constitute a different domain of the 'unperformable,'" (*Ibid.*, 235), not unrecognizable, but unlivable.

Our aporia is thus not about contestation of the subordinated/excluded groups to have their identity recognized autonomously, in terms they dictate, and place it in the archive of identities that make up the sovereign 'we.' It is to disclose the strangeness, fragility and subvertibility of enigmatic terms of recognition to re-constitute a community that shares its life with anybody that could be both a silent stranger and sovereign. Therefore the 'queer' does not only name a strange some body that defies hetero-normative articulation of bodies and demands recognition. As the next chapter elaborates, it is also an enigmatic mode of

²¹⁶ And it could be re-signified because 'sovereign' is an empty signifier of a stranger that can be filled by any body.

living together promised through the exposure of *our strangeness inherited from an obscure past*. "Its meanings [also] include," Butler adds, "of obscure origin..." (*Ibid.*, 176). *The obscurity of this origin that we all share makes the 'we' queer too as the enigmatic address that makes us what we are has an obscure origin: the addressor finds its expression in the undecidability between the sovereign and a stranger*. This stranger opens up, Butler says, "a difficult future terrain of community, one in which the hope of ever fully recognizing oneself in the terms by which one signifies is sure to be disappointed" (*Ibid.*, 142). Our queerness is revealed by the aporetic visibility of a hybrid body that cannot be made sense of at the present by our norms of recognizability as *somebody*: it has an obscure origin and future since it is constituted by strangers but *not determined* by the sovereign 'we'. It is thus a threat to our present since its being *nobody* signifies *the possible failure* of the constitutive address that recognizes us *only* as *somebody* from the archive of identities with an obscure origin. But it also embodies a promise and a hint to 'the subordinated/excluded groups': that the power of the 'we' so precariously constituted to grant or refuse recognition depends on our performance as strangers to ourselves and performativity of identities. To put it another way, the power of the 'we' does not depend on sovereignly dictating the terms of our recognition as *somebody* with an identity, it depends on revealing how strangely and precariously constituted we all are.

To summarize, the aporia of recognition is irreducible to identity politics of radical difference and stable identities offering their visibility to the classifying, and recognizing gaze of strangers from the past. The queer body addresses us in enigmatic terms, not to its identity, but to the failure of their address as sovereign speech: norms of recognition that fails to bind and conceal our strangeness. This is a loss of the identity of the sovereign as the queer body of the people still seeks its meaning, identity, and representation through speech beyond the past, beyond our control, and beyond the recognized forms of shared life. Yet this loss is

paradoxically the condition of our sovereignty as the people where anybody could appropriate the language of law and address us. Speech, constitutive address, speech-act of recognition are all re-iterative, Butler emphasizes, because speech is basically *melancholic*. The next section brings together *melancholic identifications* which poses against the strangers from the past that survives, the lost other that survives death in life.

7.2. *Strange Survivals, Strange Ghosts, Strange Words: Hauntology*

I argued that, for Butler, the norms of our lives have a past we have never lived but are asked to live as and through our own pasts. More strangely, we are addressed by ghosts from the past, in the sense that successful conditions of speech-acts that constitute, identify and recognize our bodies as somebodies whose lives matter in a shared life at present, are established in a bygone life, by dead strangers with obscure origins. Our presence and present are thus “already implicated in a social temporality that exceeds [one’s] own capacities for narration” (Butler, 2005, 8). One cannot be quite rationally responsible for one’s life, but one may nevertheless respond to it critically. As these norms constitute society as an archive of identities that form the ‘we’ peopled with ghosts, Butler’s approach is not an ontology, but hauntology: our lives are addressed, constituted and recognized by an undead representation of the ‘we’ that we perform and become when we respond to the enigmatic address of ghosts *who have a wish-to-live* beyond their time.²¹⁷ Their speech survives the past, transformed into the ways of speaking, acting, living and being that form the material conditions of a shared life limited by a social temporality that does not start or end with our lives.

7.2.1. *Survival of the Stranger within and among Us*

The past of the people *survives* through performance of strangers whose lives we are asked to repeat, identifying with them, silently responding to their enigmatic call which we do not

²¹⁷ They have a wish-to-live because they form the conditions under which we still, at present, live. They survive the past and become our present.

even hear, and re-iterating their words when we speak. Their address is silent, but formative, performative and limiting. Formation is limitation, appearing within a field normatively restrained, as Rancière and Butler argued. And the field of representation is an already circumscribed context of discourse that delimits the sensible from insensible; the formative power of their speech also serves as a prohibition, a foreclosing injunction, a bar that renders some words unspeakable, some bodies unrecognizable nobodies, some subject-positions unacceptable, and some lives unlivable.

Whether foreclosure is tantamount to exclusion, however, is a question that needs to be foregrounded against the survival of what is excluded from /foreclosed in a shared life. Butler insists that just like the ghosts of the sovereign 'we' that still trouble our present, their excluded presence haunts the people because it is included into discourse *as its unacknowledged norm* that circumscribes the domain of the sayable, recognizable, and livable from within. Thus in Butler's account of the unspeakable, the subject of speech enters into the normativity of language through a *strange* prohibition (Butler, 1997, 114-121) that both enables and limits life by an unacknowledged debt, melancholic attachment, and response to the other that nevertheless survives in a shared life it is excluded from. And the unsayable debt enables the insidious constitution of the sovereign, i.e., self-sufficient, autonomous 'we' that survives by concealing its unacknowledged response to a ghostly stranger.

Thus the unsayable is the "apprehension"²¹⁸ of the un-present other within us which the present 'we' owe our life to. These are both the ghosts from the past, and ghosts from the future that live unlivable lives outside the public, in the darkness of the private. Butler believes that the line that separates the "I" from a "not-I," the self from its foreclosed other,

²¹⁸ "Apprehension" is a form of recognition laden with the awareness of a threat/promise Butler elaborates on it as "marking, registering, acknowledging without full cognition" and "[i]f it is a form of knowing, it is bound up with sensing and perceiving, but in ways that are not always—or not yet—conceptual forms of knowledge" (2009b, 5). Apprehension entails sensing and acknowledging what is unrecognizable by the norms, and acknowledging the presence of those rendered absent by the norms of recognizability (*Ibid.*).

the presence from absence and the production of a life that survives the formative prohibition, is the limit concept of the social the queer embody. In her rendering, the prohibitive bar takes on the character of a productive constrain on the discourse that forms the subject as a coherent, stable, identifiable body viable in a shared life. In *Excitable Speech* she turns her critical gaze to censorship as an attempt to constitute the public domain of the sayable and consummate the possibilities of signifying the body. “[U]nspeakability as the condition of subject formation” (1997, 135) sets the background against which hegemonic representations structure the intelligibility of the body as a viable identity.²¹⁹

What is investigated in Butler’s corpus is thus the address and apprehension of this enigmatic remnant which survives as a ghostly presence that can only be represented in its absence. And of particular concern to her, in this account, is how our presence acquires a socio-political representation within a normative matrix of discourses that produces zones of unrepresentability, unrecognizability, unliveability, and ungrievability. The enigmatic excess, for Butler, is predicated on a loss in the past, in the *before*, that still holds a grip on the present, a prohibition of the law that, for its own survival, needs to maintain the insensibility of the always-already-excluded from the shared life. In her rendering of the unrepresentable excess, Butler tracks down an almost illegible trace of an ‘ungrievable loss’ during the address identifying the subject in relation to an unacknowledged otherness *produced by the law*. The alterity at stake both gravitates toward and finds its language in the distance to a loss the subject cannot own up to and hence mourn. Although the subject becomes intelligible and viable through what it dis-identifies with, it nevertheless understands itself as the negation of the prohibited identity: “a radical refusal to identify with a given position suggests that on some level an identification has already taken place, an identification that is made and

²¹⁹ And it also produces what Lyotard called a ‘waste product’ of unrepresentability (Lyotard, 1990a, 85-93) that serves as the exclusive norm from within the representable.

disavowed, a disavowed identification whose symptomatic appearance is the insistence on, the overdetermination of, the identification by which gay and lesbian subjects come to signify in public discourse" (Butler, 1993, 113). The unrepresentable signifying 'not-me' thus survives and provides the foil against which the subject can represent itself *negatively*, along the visible/sayable limits of normalisation structured by the prohibition. It is the lack of those whose presence must remain, by the norm, unacknowledged in the background of the conditions under which the subject appears and lives. As a loss the subject cannot admit having suffered, the unrepresentable is disinvested of a recognizable presence in what makes the subject what it is, but the covering up of a troubling *trace* paradoxically leads to a melancholic investment in and an attachment to the loss that secures its identity.

The differential norms of having a socio-political presence, i.e., identifications, are transferred to the emergent subject by significant others who already embody them, and who, in nurturing, enabling, making demands, and providing enigmatic figures of desire one can nevertheless identify with, deploy affective channels, mobilizing the child's both bodily and affective dependence on them, through which an attachment introduces him/her into a collective life.²²⁰ That "no subject emerges without a passionate attachment to those on whom he or she is fundamentally dependent" (1999, 7) suggests that the vulnerable subject-to-be in fact often *sur-vives* in its denial of the groundless prohibition that places it in an inhabitable zone of the socio-political.²²¹

²²⁰ The unrepresentable operates within normativity "as an indispensable interior exclusion – an outside which is inside interiority making the articulation of the latter possible, a transgression of the border which is necessary to constitute the border as such" (Fuss, 1991, 3).

²²¹ That is because the trajectory of its socio-political life is dependent upon the precarious life of a normative discourse expected to go beyond (*sur-*) it, in its mythical past and uncertain future. "The act [of subjectification] 'works' in part because of the citational dimension of the speech-act, the historicity of convention that exceeds and enables the moment of its enunciation" (Butler, 1997b, 33)

7.3. *Survival as a Poetic Struggle over Life: Performative Re-Iteration*

The historical endurance of the normalized subjects is also coextensive with the opening up of uninhabitable zones of life where others are rendered nameless and futureless. Our survival may depend on being named, but the marking of a body either as 'boy' or as 'girl' denies a name to those who are neither. The primary desire to survive in a shared life is negotiated by the queer within the space allowed by the binary and exclusive imperative that "enables certain sexed identifications and forecloses and/or disavows other identifications. This exclusionary matrix by which subjects are formed thus requires the simultaneous production of a domain of abject beings, those who are not yet 'subjects,' but who form the constitutive outside to the domain of the subject" (Butler, 1993, 3). "This raises the question of how it is that [a norm] secures the conditions of intelligibility by which life becomes livable, by which life also becomes condemned and foreclosed" (Butler, 2000, 23). She suggests that the norm secures the survival of the foreclosed excess through melancholic attachment to and identification with its loss.

In the last section I discussed the intelligibility of lives in their material, bodily aspect in social relations.²²² Indeed one only becomes an autonomous subject by re-enacting and "re-experiencing ... a set of meanings already socially established" (Butler, 1990, 140). Performativity here is defined as "a stylized repetition of acts" that (de)stabilizes the semantic relation between the body and its socio-political reception, its action and others' response to it by the temporal grammar and vocabulary of subjectivity established in the past. When this semantic relation between what is seen and what is said/done is broken, we do not make sense. In other words, a performative contradiction occurs between the visible and the

²²² "[I]f certain constructions appear constitutive," Butler underscores, "bodies only appear, only endure, only live within the productive constraints of certain ... regulatory schemas" that represent us as a part of the lived relations (Butler, 1993, xi)

sayable that undoes the subjects of speech. Butler's earlier works²²³ suggest this momentary gap between the two as a possibility to address the melancholic loss and re-signify a queer body as somebody we can respond to as if one of us in a shared life: since 'the sovereign' is an empty signifier of a stranger, she assumes, one needs a disruption in the signification practices to fill it with another body.²²⁴ The demand is performed as a struggle over life, its liveability and performative re-articulation of the norms that regulate it. For Butler, "the 'we' does not, and cannot, recognize itself, that it is riven from the start, interrupted by alterity ... and the obligations 'we' have are precisely those that disrupt any established notion of the 'we'" (2009, 14). The *aporoï* thus lay a claim on the 'we' as its equal members who can (un)make the law. They re-signify themselves as a part of the society, equal to others. The subversive re-iterations of the set of meanings disrupts the lived relations of the 'we' that, through fantasies of absolute sovereignty, refuses to seek the norm in the presence and demand of subordinated and misrecognized others. The disruption that "queers" the subjects could be performed in sensible or discursive terms, as a disagreement, or the visual shock of a queer body.

An interruption in the re-iteration of lives indeed exposes the strangeness and precariousness of our constitution, but can it expose it as a loss? Can the addressed respond to nonsense as if it is the law that will have formed a new community once responded? "What are the conditions under which we find that we are responsive to other human beings," Butler asks, "[b]ecoming responsive— seeing or sensing suffering, responding to it?" (2003b, 103). During a performative contradiction one's body dis-identifies with someone from the 'we' that one is and *loses its viability* as some-body among us; it becomes queer. Rancière's framework assumes that at the moment of dis-identification one *excludes oneself* from the

²²³ Cf. her *Gender Trouble: Feminism and The Subversion of Identity*, 1990, 57-60; *Bodies That Matter: On the Discursive Limits of 'Sex'*, 1993, 65, 232-235; *Psychic Life of Power: Theories in Subjection*, 1999, 93, 132-142.

²²⁴ The sovereign is one, being (outside) the law, (un)makes the law and if domination of the 'we' is the lived norm of the society, the *aporoï* make a claim to the sovereignty that disrupts and aims to unmake it.

present community of the sensible and becomes a silent presence offering itself to our poetic gaze. Earlier Butler casts this moment as a *poetic struggle over life*; an address of a life lost to a shared life that foreclosed its being lived wants to re-articulate what it means to live together in inclusive, equal terms. At this critical moment of *loss*, the wish-to-live of the sovereign strangers from the past and the wish-to-live of the ghostly stranger battle and everything hangs by the illocutionary forces of two addresses, one from the past and one from the future.

Butler's Antigone in fact aims to bring home how the foreclosed other can lose the battle of life she has never lived to begin with, but still haunts our life and demands a response. Antigone enacts the undecidability between the stranger and the sovereign, appropriates the language of law, does everything in her *power* to re-articulate her body as a patriarch, demands another community where enemies are recognized as citizens that deserve burial, *but she fails*.²²⁵ She mistakenly takes her addressee Creon, whereas the stranger from the past that constituted her *responseless* is Oedipus/Polyneices, the ones she was *passionately attached to and kept her from having a life of her own*. Yet I argue Antigone dies as she does not take into account the temporality of recognition, and although she died, we, just like Butler and countless others before her, *respond to her here so she survives as an addressor*.

7.3.1. *A Stranger Who Does (not) Survive: Antigone Antagonizing the People*

So far I have argued that the other in Butler's theory is a foreclosed and troubling remnant of the constitutive address, internalized into the self in recoil as a disavowed absence; an un mournable loss. In Butler's parable of gender melancholy, what she terms 'foreclosure' operates, first, via the ambivalent signification of a demand of love by the same-sexed parent

²²⁵ She fails because, Ranci re would argue, her response to her dead brother is ethical and she was enslaved to the Other, Polyneices who silently calls her.

whose body as a signifier the child is expected to *lose as an object of desire but retain as a figure of identification paradoxically considering that desire functions as a force of (dis-)identification*. Butler transposes as a gender-formation process Freud's arguments in "Melancholia and Mourning" where he suggests that "in the experience of losing another human being whom one has loved ... the ego is said to incorporate that other into the very structure of the ego, taking on attributes of the other, and 'sustaining' the other through magical acts of imitation" (Butler, 1990, 57). In Freud's account of the primary scene of gendering where the child repudiates the desirous attachment to the same-sex parent s/he then again needs to mimic and represent in action, bodily demeanour, and gender orientation, the loss of desire as the force of identification is at once experienced, overcome and re-established as the child submits his/her disavowed desire to the heteronormative gesture that doubles and covers over the amorous *presence* of the denied identity in the *representative* point of reference for his/her future. *The child becomes a gendered subject insofar as s/he desires the negation of his/her desire for the same-sex parent as a loss that lingers in its unrepresentability.*

Yet the primary prohibition against same-sexuality also eroticizes what is denied in the sense that the child is consigned to the desire of being the same sex of the parent s/he can never love, or admit to loving passionately. As "gender identification is a kind of melancholia in which the sex of the prohibited object is internalized as a prohibition" (Ibid., 63), the desire at stake should not only be prohibited, but also *unspeakable* for the efficacy of the prohibition that represents the self in mimetic relation to other: "Mimesis within melancholia performs this activity as the incorporation of the other 'into the ego.' This is an effort to preserve the other and at the same time to dissimulate aggression toward the other" (Butler, 1997, 189-90), a strange, aporetic constitution by identification which is also a dis-identification. *This is*

the same relation to the other understood as the ambivalent bond of re-iteration between the queer one and the 'we'; the foreclosed others and the self of the people.

7.3.2. *Antigone's Present*

Living in the "unstable and continuing condition of the 'one' and the 'we'," Butler argued, the people inhabit an uncertain space-time of those speech-acts blurring the demarcations between those bound by the power of the social bond; they do not take place in the isolated moment and context of their first utterance by the 'one' but are always re-interpreted via a chain of reiterations of an anonymous, controversial 'we' troubled with the foreclosed other that in its *hostility and solidarity, its past and future* take up, reform and deform all the past, present and unforeseen future meanings of the shared words. Yet our debt to strangers remains unsayable for the fantasy of sovereignty in speech to be efficient. The 'excitability' of speech, the address given under the stressful bond of the people, or "the condensation of iterability that exceeds the moment it occasions" (Butler, 1997, 14) however stretches over "the gap that separates the speech act from its future effects . . . [and] begins a theory of linguistic agency that provides an alternative to the relentless search for legal remedy" (*Ibid.*, 41). In analysing the speech-act performed by Antigone, Butler notes "how her language, paradoxically, most closely approximates Creon's, the language of sovereign authority and action" (2000, 6). Antigone, at her present not a citizen with a right to speak but a subordinated subject, an insider to the community but outsider to the politics of the public sphere, nevertheless speaks, and in speaking the language of law "her speech exceeds the law that governs acceptable speech" (Butler, 2000, 9). Antigone disrupts the normative distribution of the sayable of the present. She enacts her identity as the (un)representable 'one' that forms the limit to archived identities. She invokes the words of the 'we' (mis)appropriated by virtue of re-iteration that places discourse outside any identity's control.

The undecidability of the future effects of speech, uttered by emergent subjects unanticipated by the archive, in communities always uncertain of its boundaries, at once both exposes and disrupts the representative limits that coincide with the normative restrictions on political presence that stabilize the community through *security* by the norms of the archive of the sovereign. We feel secure knowing who is seen as one of us, who we are, who we are to respond to (and in what way), and where the boundaries of the self end and otherness begins. Antigone's (un)representability operates within this normative scheme as the foreclosed other that troubles us from the border, making us insecure at our place as the sovereign. Assuming the voice of the 'we,' and citing the conventions that give words a normative power to constitute the addressor as well as the addressee as parts of a community, Antigone as a part of *the aporoí* does more than call into question the exclusion that characterizes "the sphere of laws and norms that govern the accession to speech and speakability" (Butler, 2000, 2). Speaking out of place and turn, neither outside nor inside the community, she shatters the space-time of the ethico-political, making visible an emergent presence that is at the present unrecognized by the norms of the past. She asserts *the outside* whence she speaks as a risky opening to others whose presence does not count as real *inside* a contentious community, "a future horizon, one in which the violence of exclusion is perpetually in the process of being overcome" (Butler, 1993, 53).

Antigone's performance indeed relies on the formative power of speech to re-form what was already 'typified' and put to its place in the archive in Rancière's terms. But it also makes clear the people need "[t]he ability to narrate ourselves not from the first person alone, but from, say, the position of the third, or to receive an account delivered in the second" (Butler, 2002, 60); Antigone struggles with the ontological story of the ethico-political life told by 'them': the strangers from the past ruling over her present. The unspeakability of her desire for her brother, the queerness of her status, her extra-legal

character makes her present unlivable within the existing material conditions of the 'we.' The norm, Butler implies, "might be understood as a certain kind of tomb that does not precisely extinguish that which nevertheless remains living and trapped within its terms, a site where Antigone, already half-dead within the intelligible, is bound not to survive" (2000, 44).

7.3.3. *Antigone's Future*

Antigone's feet slipped over the aporetic line of survival, but why? Could it be that her attachment to a ghost drove her response into silence before the living, another subordination, and death? Was she dis-identifying with a patriarch who was *not* her father only to identify with the sovereign other that rules her heart, body, desire and life? Berlant, for instance, reads passionate attachments in reverse, as an impulse to repeat the very forms of life of significant others with insignificant lives we emotionally identify with, adopt an aspirational normalcy as we need love, solidarity, a feeling of belonging to, and a *fantasy of intimacy* we demand from others (2007, 277-78): the subordinated/excluded "do this in gestures that try to force a sense of obligation in someone, which will just have to stand in as the achievement of their desire for acknowledgment and a way of life" (*Ibid.*, 288). For Berlant, the fantasy of passionate attachment actually imprisons the attached into the past of normativity that encroaches on the present, because the address of the attached is to curry recognition from those present in a shared life constituted by the past, to feel normal, desired, loved, and accepted by the sovereign strangers who made the 'we' what it is. Stuck in 'the time of survival,' the child has no future, or life of her/his own, and hence cannot survive if s/he cannot disavow passionate attachments that work by "the transmission of fantasy as an inheritance of an impossible life" (*Ibid.*, 299) their parents lived. S/he, the child of an abject family, was always already *lost* if s/he was subjectified through an attachment and loving response to an already lost life unrecognized as a 'bad' life. The child *is thus enslaved to a stranger whose life s/he lives in his/her attachment.*

Jenkins, however, argues that an attachment to the foreclosed other cannot be reduced to an emotional response that re-affirms the present norms in simple mimicry, and reproduces the same material conditions of unliveable, ungrievable lives inside a shared life. What counts as a livable life 'retains integrity on existing terms only by foreclosing the response' that would disintegrate the self of the community that refuses to see unliveable lives *as lives to begin with* (2009, 69) and reveal this unrecognized *loss* as integral to its constitution that recognizes certain lives one ought to attach to. Our ability to have emotions *at the sight of a loss* is in fact constructed by the norms of recognition that re-articulate and recognize what *is seen*; they tell us what is to be seen as a loss, and what is a waste product. The foreclosed other is foreclosed exactly because it is not *seen* as a lost life by "conservative investments in a certain narrative of its meaning" (*Ibid.* 72). Again, a life is not lost if it is not the life *of a body recognized and responded to as somebody among us subject to the same norms of meaning*.

It is Antigone's insensible attachment to *insidious invisibility, hideous unlovability, wretched unliveability* and *queerness* that troubled her community's norms of recognition that structured its narrative as a way of life lived by the identities in the archive. Polyneices was a waste product of war in this story necessary for the security of community, an abject body of an enemy left for clarion birds, worse than nobody as a traitor who disavowed his attachment to the family (Creon was his uncle), and his loyalty to the city. Calling others to see this waste as a loss by *antagonism* is not the emotional call of *solidarity* from the meek that seek recognition, love, visibility, and audibility from those present in the community, but a promising threat of the queer to their constitutive story that others respond to with fear, anxiety, and apprehension (*Ibid.*, 71). It is an insensible call of *transformation* by the unrecognizable loss that suddenly appear as a loss of their sovereignty to recognize only certain bodies as somebodies whose lives matter to the community. Those dead in a shared

life, and queer attachments thus can always trouble us, because they disclose how fragile the meaning of our lives is.

Antigone died because she did not make sense in this historical story; it was impossible for anybody in her present community to emotionally identify with her. Her *strange* emotions for the enemy brother, Butler notes (2000, 23), were exactly the unrecognizable limit to the passionate attachments and mimicry of life that sustained the Greek community constituted by foreclosure of incest, disloyalty and treason: Butler notes her symbolic position was "the social deformation of both idealized kinship [as the foundation of Greek society] and political sovereignty [as the foundation of Greek politics]..." (*Ibid.*, 6). Antigone embodies the excess over the recognizable by the norms of her society. She brings this limit of unrecognizability into the public field of visibility by an ambivalent bond of antagonism and solidarity toward others who were enemy/lover/brother/sovereign, all estranged but already brought together in a shared life where lines amongst identities were disturbed (*Ibid.*, 11). Berlant, in mistaking Antigone's address as a call for and expression of emotional identification with the subordinated other, overlooks the melancholies involved in this identification as "an effort to preserve the other and at the same time to dissimulate aggression toward the other" (Butler, 1997, 189-90). This is a *strange* identification that also dis-identifies. Rather than re-producing the community of the self, it undoes the relation between the self and others, threatening the set of identities materialized in their distinction to form a 'we.' In my reading, Antigone's mimetic identification with Creon the sovereign only wished to undermine sovereignty. She called for solidarity with the fallen, disavowing the solidarity of her present that cannot see the enemy as one of them (Butler, 2000, 37). She loved her brother queerly enough to trouble her community, but also wanted to bury him to find closure with a foreclosed love in a symbolic act of aggression and dis-identification. *She wanted to preserve the fantasy of unfilled,*

unarticulated, unrecognized, unconditional love while at the same time bury it in the tomb of the past that foreclosed her future life. She wanted to move on, stop grieving the ungrievable in a community of troubled conservatism and peaceful aggression toward the other we share a life with.

What Butler suggests is not the ethics of sympathy that a nice story invokes in us. It is rather a response of the self to the other unrecognizable by norms that constitute the self. Characterization of the foreclosed other and the estranged self as 'nice' is a category mistake. Both of them are *promising and threatening* in the scene of recognition. What Antigone did was enact the undecidability of love as a norm of identification and recognition that can always represent and conceal an aggression, exclusion, and violence toward others we attach to and recognize as one of us; *this exclusion enables both identification and dis-identification with the other through a risky, precarious, ambivalent bond*. To see her mourning simply as an depoliticized act of compassion toward the loss internalized into the self through emotional mimicry, parodies the necessary political labour of antagonism to expose and recognize it as a loss that cannot be owned up to by the self in recoil at the present (Butler, 1990, 63); *for as soon as Antigone owned up to it she wished to disown it*. Hers was a risky fight she could not win against others as well as against herself until those norms of lovability, identifiability and recognizability that constitute the self of the community (as well as *herself*), were changed by the political shock of what is revealed as unlovable, unrecognizable and ungrievable *within us* (Butler, 1999, 121; 2000, 79-80; 2004b, 31; 2009, 4).

As Jenkins suggests, "the ungrievable life is to be located within a question of social transformation that criticises a certain refusal of sociality" (2009, 75), a sociality that both conditions and limits our lives with a loss. Antigone lost (her brother/lover/sovereign/her life that she never had) but so did Creon, and his community; they lost the promise that cannot be

separated from the threat Antigone embodied towards sovereignty. The promise is to be *untroubled* in a shared life, peace with the other that has been troubling us in its antagonism. So did Antigone survive? No, but that does not mean she lost the fight and her address was lost forever. *Speaking for her turns out to be predicated on the socio-political conditions of being able to be heard; a political act that can be successful if the speech that performs it does not ring hollow to others in a shared life built thereby.* And recognition functions likewise with regard to the norms of recognizability; one is recognized if one is constituted to be recognizable by the norms of the community of sense. Antigone thus had to invoke the ethico-political forces that first constituted the conditions of sensibility in a shared, political life that disavows and reduces certain lives to silence but only to threaten the present community and promises a future society that has a wish-to-hear.

Thus, contra Rancière, Butler argues for the inherent ethical paradox of a speech-act that nevertheless adopts the norms it shows to be contingent. The contingent ground of authority to constitute the people, for Butler, is a wish to be heard in a shared life by what will have been constituted as the subject of the political. Yet she takes into consideration the wish-to-live in a shared world which the controversial norms still have a hold on. A shared life of the people, for Antigone, is not “simply a situation she is in but a set of practices that she also performs, relations that are reinstituted in time precisely through the practice of their repetition” (Butler, 2000, 58). Since the founding act of these relations must be continuously cited even to debate them, Antigone had to situate itself in the present. However, in repeating the constitutive speech-act, she lays a claim to the authority to refer to an ethico-political world yet to exist, a *future* shared life entombed within the present she has to live within.

Antigone seems to have failed. She was not heard because her becoming politically sensible, i.e. visible, audible and recognizable, was belated. It was motivated by and against the present speech of Creon, not by the prophecy of the authority figure in the more distant

past where her father, Oedipus, had already wished that she had not been born (*anti-gonē* as in anti-descent), would not give birth to children (*anti-gonē* as in anti-womb) and finally generate no future (*anti-gonē* as in anti-generation) at all. Although in Butler's reading Oedipus is indiscernible from Polyneices whom I argue that she (dis-)identifies with, she does not disavow *the birth name given by him*. In sum, Antigone did not have a past or a future from the start, was not socio-politically alive, living a shared life, but led a life made unliveable by a self-fulfilling prophecy. Within the political world set up by the founding speech-act of the fathers, she finds herself implicated in prophetic words she has but already taken up, acted on and realized in action, living an unlivable life (Butler, 2000, 22-25). Between the 'has-been' and 'will-have-been' lies her (un)representable present she regrettably attempts to unearth. But she does not consider her life's normative constitution in the past from which she should seek the norms of the future community.

Conclusion: Wish-to-Live Peacefully

Butler's understanding of subjectification conceptualizes recognition as a silent semantic event that, preceding the birth of singular subjects, always already confer on them a political identity available in the archive of the 'we'. The law, for Butler, thus addresses the people in terms they cannot choose, creates hierarchies amongst the identities, subordinating some to others and in the most extreme cases forecloses some from taking a part in the constitution of the community. "Here a silence is walled up in the founding structure of the founding act," again (Derrida, 1992, 11) since the silence is about a prohibition, *prohibere*, "habit of the 'before,'" an ungrounded norm of the past that authorizes and constitutes by foreclosing certain presences from a shared life of the recognizable.

Although no one can evade the founding call that names, genders, identifies and renders recognizable as everyone needs to enact an identity in order to be politically present as one of us (i.e., have recognition, protection, rights and a meaningful place in the political), Butler argues this speech-act is the site of an ongoing debate. Its semantic character with

open-ended future, and its contingent authority provides an opportunity for the un-/misrecognized, or a threat for the re-constitution of the people in democratic terms.

"Interpellation," Butler elaborates, "is an address that regularly misses its mark, it requires the recognition of an authority at the same time that it confers identity through [presumably] successfully compelling that recognition" (Butler, 1997, 33). Paradoxically *the very authority that grants recognition first needs to be recognized as the credibility of a precarious prophecy that fulfilled itself with the promises of a shared life*; the felicity of an act of speech is precarious, and not a given of the norms it is subjected to. It is similar to a self-fulfilled prophecy regarding the future that comes true once 'we' act *as if* it refers to and obligates, subjectifies us.

If the subject of politics comes into presence through speech-action that oscillates between the past that has (never) been and a risky future that might (never) be, the present is always laden with a "paradox of referentiality: namely, that we must refer to what does not yet exist" (Butler, 1997, 4). And, as I argued, the limits to the present coincide with inter-subjective norms of semantic operations that articulate what is seen into what is said about it. In order to understand the ethics of sayability and hearability, Butler proposes that the ontology should be replaced with hauntology, listening and responding to ghosts from two times of the people within the present. Antigone failed as the temporality peculiar to her wish-to-say ("will have been") made her an untimely political subject, unintelligible and unrecognizable to the address of the law that only understands the language of the 'has-been.' It constituted her identity as a silent part of those relations that govern the access to audibility as well as public speech and speakability. Just like Rancière suggests, she silently appropriated the words that circulate without authorizing, but ended up agreeing with the authority of the norms of the past, instead of taking them up and acting on their undecidability. And, although she wished to say, her speech, dead and meaningless at her

present, was not met with a wish-to-hear. *She sadly did not take into account of the aporia of recognition as a conflict between the two temporalities.* She could not negotiate the conflict within a present laden with the past towards a dis-foreclosed future. She did not choose, as Rancière implies, solidarity over antagonism, the past over the future, the law of the community over the law of the people. She chose another dead stranger from her past – Polyneices whom she had a passionate attachment to – over the future people she could have shared a life with; she was responding to a ghost's call of justice. But she too was a ghost in life. She never lived to start with, but even if she died her promising/troubling speech survived through millennia: Antigone died, just like the sovereign strangers from the past who constituted our community with foreclosure, but their fight still haunts us. If the other is a foreclosed part of the self, it can only be killed by the suicide of the community that wants to *secure* itself against its troubling call, as in the examples I have taken in this thesis from Nazi Germany. A community that does not have a wish-to-hear is not dead, but neither is it quite alive; it is seemingly untouchable like a sovereign ghost, but incapable of change, response, and a future life.

So in asking “Will *you* hear my story?,” Antigone demands an ethical wish-to-hear the unsayable, i.e. what could not make sense by the political rationality of her time that condemns her to death in life and still haunts our present in its wish-to-live. I have argued that it will be heard when conservative narratives and norms of meaning that secure our sovereignty submit to demand for socio-political transformation to enable peace with the troubling/promising other in its *insensibility*. The next chapter asks how one can make peace with an other both threatening and promising and without doing violence to one's self or the other.

Chapter 8. Conclusion: Wish-to-Hear

The last chapter foregrounded that norms that recognize a life as a part of the shared life of responsiveness, visibility and audibility operate in tandem with a silent and silencing prohibition, an effaced and effacing foreclosure that recognizes some bodies only as no-bodies. Through the grids of these norms we can only recognize familiar faces from our shared past; but when we meet a threatening stranger whose image is not constituted and marked as familiar, those norms are bound to fail. Butler argues that this is not an ontological limit that forever separates the self from the sublime other that cannot speak, or enslaves it to the sovereign other one can never respond to but with a yes; it is rather a semantic/ontic operation performed through norms and critiqued by a hauntology that investigates how ontologies are historically narrated, embodied, and lived at a cost. Hauntology aims to bring into visibility the ambivalent signature of anonymous others that, in marking our lives livable, responsible, visible and audible for others, both promises us lives we never live and threatens us with deaths we never die. Hauntology is thus not an ontology but a critical investigation of the differential ontologies historically operative in the present that mark and humanize some faces as familiar, recognizable, responsible 'archive' of subjects, and others as less, or not recognizable at all, misrecognizing, wronging, insulting, subordinating, effacing or killing them.

If there is a possibility of deriving an ethics from hauntology, Butler suggests (2000, 9), it can only be a historically contingent one derived from the conflictual situation of address that enables the appropriation of norms, not a morality with stable norms.²²⁶ In this conclusion, I hope to consider Butler's critique of violence as the founding moments of law

²²⁶ Disclosing and responding to less human faces does not promise the *good life of a morality*. Hauntology critiques norms that constitute lives without subscribing to a universal morality of stable rules that immobilize the people in a way of life. It is not either theology where the asymmetry between an unrepresentable God and human present before Him ontologically wrongs the latter and subjects it to an alienating law and the inequality of being the addressee that cannot disagree, though hauntology does provide reasons why others ontologized as such is seen to be deprived of a response when wronged by the law, and relies on a pre-ontological priority of being addressed by others that conditions the response.

itself that limits life into unlivable lives. If the norm cannot be appropriated in a living way, a shared life loses its potential for socio-political transformation and openness to what is to come. Life is suffered as death in its repetitive compulsion where the present of the people is enforced to live a dead past. In earlier chapters I criticised Habermas for not giving enough theoretical space for potentiality for socio-political transformation. In Lyotard, I found the resource for political change in what comes before the law, a suffering other that addresses and obligates us. In Rancière's thought, the people are defined by mobility, change, and movement. Here I will conclude my pursuit by turning to Butler who argues that re-iterating law through non-violent violence has a potential to bring about a democracy to come.

Mine will also be an attempt to complement poetics with an ethics of power where the ethical force is futural. I will bring the investigation into the temporality of politics to a conclusion, arguing that futurity and what is to come characterizes the basic temporal mode of socio-political life. A shared life is shaped by the force of obligating addresses that move us toward what is to come. Butler indeed aims to reveal the *power* inherent to the silent call of others exposed to the violence of a constitutive address that through differential ontologies condemns them to unlivable lives and undiable deaths. But she says this power should be seen as a power in recoil, a power that de-ontologizes the archive; it is; as a power turned against itself, a *non-violent violence* directed against the silent violence in the past, not the present lives of a people, or future lives of those not unrecognized. I will argue that the address is silent, imaginary, imaginative, and imaging. And if the ongoing violence is inherited historically, from a past re-lived as the present, the demand for a non-violent violence, Butler argues, is *futural* in its power, both re-iterating norms of the past against themselves, and forcing us to constitute a new community of a livable shared life.

Rancière's Althusserian framing of the recognizing address is between the identifying Police²²⁷ that ontologize and regulate lives and the anonymous wronged who live on the move, whereas in hauntology we are both the police and the wronged in our self-difference and wish-to-live within the regulated walls of the *polis*: we are complicit in the violence norms exercise over the wronged through performativity of our selves, confirmative re-iteration of and conformist attachment to a life structured and limited by those norms, *unless we disavow a secure but impoverished life*.²²⁸ We respond to foreclosed others because they too can appropriate *power* of words that animate/kill, because the lives we never live and deaths we never die are at stake, because we may be violently affected by others we are exposed to, just like we may affect them with violence, because we are in trouble due to the ambivalent social bond of promise/threat, but, more importantly, because we have no other sustainable choice in a life shared by others. In the first section I shall follow Butler's reading of legal violence in order to suggest that normative violence is performed in temporal terms, through indifference to a particular situation of address and attempts of re-appropriating the norms in a living way. The past of the law is thus continually re-asserted as the present. In the second section I shall formulate what can be seen as the right response to the legal violence; here justice will be understood as a response to the co-temporaneity and co-presence of the particulars within the universal frame, our dispersion in and outside it. Making visible the presence of the foreclosed others within the 'we,' responding to their suffering under the norms, and revealing their survival constitutes what Butler means by justice as a relation to others with whom we co-habit the world. In the third section I shall investigate the possibility conditions of responding to the obligating address of the suffering others within the same frame as the sovereign 'we.' I argue that, having a plurality and being a stranger to ourselves,

²²⁷ When capitalized, the police refers to the general system that manages the sensible.

²²⁸ We do not respond to the foreclosed other because we are good, nice, conscientious people with a bad conscience; or because we feel sorry about the 'mute,' dehumanized others the Police's norms wrong; or because we feel *poetic before the silent other indifferent to our response*.

we are always on the threshold of being otherwise. The future of democracies thus relies on a wish-to-hear others as if their address comes from within us, within the plurality that constitutes 'me' as a part of unidentifiable 'we.'

8.1. *Difference, Indifference, Violence: Of the Law*

Rancière conceived a wrong to be irresponsiveness to the other as our equal; ontologically the Other is just a historically assumed position in the address that constitute the coordinates of sensibility, indifferent to the ontologizing forces. Although Butler agrees that the Other is historically produced by a regime of articulation, for her indifference belong to the wrong norms that constitute a shared life where certain lives are made unlivable by the violence of the differential and differentiating address:

These norms are, as it were, indifferent to me, to my life and my death. Because norms emerge, transform, and persist according to a temporality that is not the same as the temporality of my life, and because they also in some ways sustain my life in its intelligibility, the temporality of norms interrupts the time of my living. Paradoxically, it is this interruption, this disorientation of the perspective of my life, this instance of an indifference in sociality, that nevertheless sustains my living." (Butler, 2005, 35)

These norms, I argued, *force* us to live a life that is not our own, or a life that in its obscure temporality is not a part of the present where it is considered to have no material force, no materialized effect, no visibility, no audibility. Indifference is not of the other's being, as Rancière argued, but indeed of the speech-act: it is the wrong done by the semantic norm (rules of sensibility and making sense) to ourselves as well as others. The norm's "violence consists in part in its indifference to the social conditions under which a living appropriation [of the law] might become possible. If no living appropriation is possible, then it would seem to follow that the precept can be undergone only as a deathly thing, a suffering imposed from an indifferent outside at the expense of freedom and particularity" (Butler, 2005, 7). Indifference is the violent response of a ghostly sovereign that refuses to hear, see, and respond to the violence inherent to its foreclosing norm "that refuses to become past, and violence is the way in which it imposes itself upon the present" (Butler, *Ibid.*): the norm,

when it cannot be appropriated to address the present situation by an act of speech, forecloses socio-political transformation with a violence that conceals the limits to our sensibility, i.e., the conditions under which the sovereign 'we' can be responsive to the suffering it causes.

8.1.1. *On Violence: Temporality of Politics*

Reading Benjamin's critique of violence, *On Violence*, Butler furthers his "critique of legal violence, the kind of violence that the state wields through instating and maintaining the binding status that law exercises on its subjects" (2007, 205). The law first needs to be asserted, but as I argued drawing on Lyotard and contra Habermas, its justifying ground is what will already have been constituted by it if it is taken for and responded to as an address of authority. The constitution of a community of sense is *contingent*, i.e., the constitutive moment of the law's authority is not justified, and involves violence.²²⁹ In the third chapter I suggested that, as no authority was justified in and of itself, the address is felt as a *violent force* of speech threatening the sovereignty of those present before an undecidable figure of a stranger who can be a law-giver or a threatening enemy. In the last chapter I described how Butler suggested the violence of the law lies in its strange spatio-temporality of a mythical past where we were always already addressed, constituted, identified, and recognized by strangers as somebody within the archive. This corresponds to Benjamin's understanding of 'law-instating' violence as the address of the law is constitutive of the 'we,' the rules of sensibility, and a community of sense, and it silently *coerces* us to be the 'we' as all lives are dependent on shared, material conditions of living-together. Yet in her exposition of re-iteration, Butler also implied the law must be continuously re-stated, re-confirmed, re-embodied and re-performed. The law's binding and *coercive* authority is thus maintained and perpetuated by the norms of speech-acts that make a universal claim to regulate what counts as a good performance of life, and in Rancière's terms, what makes sense, what is a

²²⁹ I identify violence with the unjustifiable, not simply with *asymmetrical power, or domination* which is historically embedded and has its conditions of emergence.

responsible thing to feel, say, do and be, and what is sensible: and that is parallel to what Benjamin terms as 'law-preserving' violence as it is the constant policing by norms of sensibility that regulate identities making up the subjects of the law.

The second distinction in Benjamin's text is between the mythical violence underlying the justification of the law and "a 'divine violence,' one that takes aim at the very framework that establishes legal accountability" (*Ibid*, 203). The law is presumably justified and sustained by the fantasy of sovereignty of the 'we,' in Habermas' jargon, an imaginary relation of unbridled freedom (i.e., sovereignty) through which the subjects of the law are asked to relate to its rule as a part of the community, but the violence consists of the clandestine gesture that aims to erase the trace of founding strangers whose lives we are to live as if we respond to the law we made in solitude. Although the law is founded without justification, it thus marks what is unjustifiable, violent, and illegal as opposed to what is sensible, responsible, and legal by recourse to myths (mainly, of sovereignty). But to enforce the line between them, its coercive authority is preserved by the police, army, armed forces; these turn a contingent foundation of the society by an act of speech into an incontestable authority with the factual power to sanctify, incarcerate, hurt and kill by its law-preserving force.

However, the Police is not a force external to the people, which is a point underplayed by Rancière.²³⁰ *The law of sensibility is enforceable whereas the address of the silenced others is not.* It is because the illocutionary force of the ethical address is not shored up by the police that people need to negotiate their wish-to-live with a wish-to-say the unsayable in the present company of others who do not wish to hear. The silent beauty of a statue or the pathetic sight of the Müßellmanner is no threatening force to the people who 'have no time'

²³⁰ As we have seen in Arendt's notion of banality of evil, most of the time people police themselves even when the law is in the wrong and could be overthrown by an opposing force. The majority of the population under Nazi Germany chose suffering a deathly force and surviving in perilous times over responding to the silent call of the wronged because *to be indifferent was the most sensible (rational) thing for most of them to do.*

or reason to decipher its meaning in a life of a liberal indifference that aims to perpetuate the silence of the past. The illocutionary power needed to mobilize the people enslaved to their 'selves' cannot be only promising: it should also be *violent*, not the serene call of a petrified people ontologized as loci of indifference and equality, but a divine violence that, Butler quotes from Benjamin, releases what is sacred in all lives (*Ibid.*, 212) from the mythical violent past in a discursive war. And the soul of the people is *time*, its openness to change and transformation.

In other words, an act of speech both reveals the contingent foundations of the present and through its subversive re-iteration, subjects it to change. The temporality of the political act is such that it is future-oriented but takes its norm from the past which it frees from the unjustifiable limits, violent myths and policing regulations. The past is disclosed as it is; as a constitution contingently performed, with an opening to future re-interpretations. The past of the people offer its own possibility of change, socio-political transformation and a repetition that breaks with it.²³¹ Both Benjamin and Butler take the popular strike (*Ibid.*, 203) as an act of civil disobedience that vindicates the Constitution when it is threatened by the lived situation. It aporetically halts the temporality of the people when a shared life is suspended in the name of a life to come structured by the constitutional principles; the time of the people ceases to be the present, and returns to a time (hypothetical and similar to the state of nature in social contract theories) where the people, a shared life and norms had yet to exist. It re-enacts the past constitutive moment by an unjustified act in order to arrive at a future when the past violence ceases to be present in the situation.

This should not be taken as a call to arms, or as an urge to civil war to say the unsayable, but as an acknowledgment of the situation of address where *there is violence in*

²³¹ If the Constitution is the soul of the legal structure, say, the civil disobedience of a citizen equal before the law but treated differentially by the lived norm eschews the norm in order to re-install it if the act is constitutional; as an act of speech it is aporetic, being (outside) the norm. It refers to the past (making of the Constitution) which defers to the future (interpretation and acting on the Constitutional principle).

the present address, because there was violence in our past which we are responding to.

Butler makes clear that the release which divine violence brings about “is at once an expiation of guilt and an opposition to coercive violence” (*Ibid.*, 203). This is the guilt that we are asked to own for an archival violence that precedes the law, the ‘we,’ and an unpaid debt for its shared life, because the law is an address that comes before the community, retrospectively constituting what it recognizes and enforces itself by violence that petrifies the people in a lifeless representation of the ‘we,’ or an unlivable life of the unrecognized and the misrecognized amidst the ‘we.’ The law thus frames the people’s soul by the state’s monopoly on violence, might of militarism, and force of the police; it limits and forces us to share the guilt for the wrong in/of our constitution done to those constituted as different to the identities in the archive. The unjustified act of speech that discloses the unrecognized aporoi’s presence would be an instance of what Benjamin calls “divine violence” that undoes the mythical violence (Benjamin, 1999, 294-297).²³² Niobe for Benjamin signifies the people who come before the law “both as an eternal bearer of guilt, and as a boundary stone between men and gods” (*Ibid.*, 295). Butler’s reading of Benjamin’s account emphasizes how, as “a mortal ...more fecund and greater than Leto, the goddess of fertility,” Niobe’s life exceeds the limiting frame, being more godly than gods. In other words, there is more to the people than the ‘we’ and its normatively framed representation; we are also guilty of having a character that exceeds the frame. The accusative speech-act here “works performatively to mark and transform Niobe, establishing her as the guilty subject, who takes on the form of petrified rock. Law thus petrifies the subject, arresting life in the moment of guilt” (Butler, 2007, 208). As a suffering statue her body attests to the *force of the law-preserving violence*

²³² In Benjamin’s account of the myth of Niobe, “[m]ythical violence in its archetypal form is a mere manifestation of the gods” (*Ibid.*, 294). In tempting the wrath of a superior power, she discloses the always-already established situation that consists of asymmetry of power. In the myth Niobe boast her fertility that gave her more children than the goddess of fertility. Having heard the challenge of Niobe who tempts fate, Leto sets Apollo and Artemis after Niobe, and they kill all of her children in revenge and turn her into a weeping rock.

that condemns her to death in life where she is asked to pay for an infinite wrong and debt. She continues to cry even in her rock state but nobody responds to her.

8.1.2. *The Frame and the Image: The Queer Acts of Speech*

In the sixth chapter I noted how Rancière conceives the metaphor that 'the people' is as a statue subject to equal forces; he interprets the present situation to be a situation of equal power where the weaker, the *aporoi*, and the oppressed vindicate equality of all. However, Butler implies that to see the statue as a statue is already an achievement in our present sensibility violently policed and limited by the past frames of a shared life that ontologized the visible into lives we recognize; first the present policing frames on the sensibility that conceal the violent gesture of hiding *what is suffering in plain sight* must be disclosed, contested, expanded, modified, subverted and disavowed *by power*.²³³ In Butler's understanding of 'precariousness,' the limited ontologies dehumanize what they foreclose (e.g. Niobe), denying it a response that familiar faces with familiar lives in a shared life deserve. They also desensitize everyone's gaze, attempt to conceal, justify or re-articulate violence done to lives that are not considered to be human lives. Similarly I argued in the third chapter that for Lyotard too the remnant of the law is a dehumanized waste ('*Wstawać*') excluded from the shared sensibility of the 'we' threatened by the ontological difference of 'the jews.'

Therefore our sensibilities are both constituted and limited by the Police that immobilizes us, like Niobe, with its limiting frames; naturalized unarticulated norms that tell us it is not *quite* violent to insult, hurt, or kill the enemy if the 'we' says so.²³⁴ *The logic of the*

²³³ Besides one cannot possibly wrong or exercise violence on a dead statue in one's address. The ontologies of the past, however, are violent in their *wrong*, not only because they are unjustified, hierarchical/exclusive, dominating and vengeful in producing life contingent on what it forecloses; they also, making a claim to the universal conditions of sensibility and rationality, aim to *foreclose the rational force of a grieving cry, dissenting address, and a silent call* and dismiss it as nonsense, or 'bad poetry' that should have no place in a rational shared life.

²³⁴ Within the violent situation, for a policed sensibility it is *kind of* O.K. to respond to the queer boy at our high school with a sneer especially when our peers do so. It is a *bit acceptable* not to recognize the Palestinians as

police maintains that it would be somewhat sensible to resort to violent self-preservation when a stranger seen through these frames has a past that threatens our sovereignty, masculinity, superiority of our gender, race, nation, class, family, and the 'we.' Butler seems to suggest that the war is between two pasts that frame our present and limit us to a sensibility of our present selves conceived as the absolute sovereign, or the victimized other. And those constituted as the aporetic limit, in their silent address aim to awaken the law of our sovereign selves to the precariousness of life hurt, wronged, effaced, silenced and foreclosed by its violence. As we are asked to admit the wrong in/of our constitution, and this is an address between ghosts that already share a life, this is also the situation of address between the sayable as reproducing the material conditions of dead lives long gone at the present, and the unsayable foreclosed until these conditions are re-formed, an immaterial body that speaks through its silence. This is not about speech per se, but a struggle over the power of speech-acts that frame, form and limit a life under the conditions of a shared life through *differential, hierarchical and foreclosing addresses*, articulating whose bodies we are (not) to see, hear, and respond to as if they are one of us in an estranged society troubled by what it refuses to see, hear, and talk to. "The 'frames' that work to differentiate the lives we can apprehend from those we cannot (or that produce lives across a continuum of life) not only organize visual experience but also generate specific ontologies of the subject" (2009, 3). To conclude, the subject at stake is the 'we' of a shared life estranged with the people.

I have argued that the queer bodies are not only poetic images, but also *violent wish images shocking to a life in recoil, a people in denial withdrawn to the frame*; here, the 'frame' is that which, in Derrida's terms, both demarcates the outer boundaries of a

equal to the Israeli citizens when they did everything in their power to hurt Jewish people; just like it made sense for the Palestinians to resort to violence when uninvited strangers stole their land, subordinated them, sent them to exile in their homeland, killed them with a justification by a law that did not exist as a sovereign power a hundred years back in those lands.

community and opens it to its outside.²³⁵ To place an image within a frame is done by the frame itself that as the limit also disrupts the inner organization of the image.²³⁶ In the lived situation of the present societies, the limit case is the queer; their visibility forms the boundary of the community of sense, disrupts violently its normatively limited order, and says something about a shared life that gives no room to them. To expose one's queer presence to others is an act of speech: it manifests the constitution of the society that refuses to acknowledge the presence of the queer. It, being (outside) the norm, shocks the order of the heteronormative, the rule-following bodies, the sensibility of those who find the queer repulsive.

In the queers' act of speech, the visible limited by a normative ontology seek words that will both overcome and transfigure its muteness by an 'ontological guilt' in the sense Lyotard uses the term (Lyotard, 1999, 39): the body at stake was addressed differently in the past, marked as different to or enemy of the sovereign 'we,' and in some cases as the limit to the sensibility that frames a body as somebody among the 'we' that survives (by) the violent fantasies of sovereignty preserved by our attachments. Queer bodies are rendered (in)visible at the present, being (outside) the norm of representation: it is the operation of the lived norm that conceals them, not so unlike the (im)perfect crime of Nazism that wished to destroy the sensible proofs of the genocide in denial of the crime (Lyotard, 1990a, 25). Yet the frame both reveals the image and itself; the queers' act of speech both exposes the 'we' to their bodies which are (outside) the norm and the self-image of the 'we' that denies the guilt.

This is a *guilt* the queer are asked to feel as the shame that interrupts their lives, confines them to a survival in the dark solitude away from the insulting gaze of others. *But this is also a guilt shared by the 'we'* when they are on the brink of taking responsibility for

²³⁵ It, from within the image, "opens every system to its outside and divides the unity of the line [*trait*] which purports to mark its edges" (Derrida, 1987, 7).

²³⁶ "That which it puts in place-the instances of the frame, the title, the signature, the legend, etc.-does not stop disturbing the internal order of discourse on painting, its works, its commerce, its evaluations, its surplus-values, its speculation, its law, and its hierarchies" (Derrida, 1987, 9).

the wrong in their shared life, betraying the law that constituted them as the sovereign within our community of sense where to be on the side of the 'we' that gave a life to us is to be on the safe side; and where not responding to threatening strangers is the sensible condition of *inhabiting a shared life* that repeats itself. In as much as the queer is the limit and the frame of a community of sense, the community frames it as its limit that conditions its unconditionally shared life. In Habermas' theory "access to [the public sphere] is guaranteed to all citizens" (1974, 49) by the law, but the lived norm does not welcome the queer into the sphere of all; the public is open to anyone on condition that one is *not* queer. For Derrida, the conflict between the unconditionality and the condition forms an aporia of sensibility.²³⁷ If the queer has a disturbing 'character,' that is also because the 'we' characterizes them as the conditioning limit. If the 'we' apprehends the simple presence of *somebody* as disturbing and threatening, it is also the fault and guilt of the 'we' not to identify with him/her as one of us, being attached to the policed sensibilities of the present.

Rancière conceives the 'we' that responds to the queer visibility as "active participants in a collective performance instead of passive viewers" (2007b, 272).²³⁸ When we are exposed to an image, we all are charged, with creative energies and with being complicit in the constitution of the image of the queer as disturbing, "by looking at and listening to the world around [us], by figuring out what [we have] seen or heard, by repeating what [we have] learned ..." (*Ibid.*, 275). "The spectator is active" in making sense of "the distribution of the visible [which is] itself part of the configuration of domination and subjection" (*Ibid.*, 277). Thus "looking is also an action that confirms or modifies that distribution and that 'interpreting' the world is already a means of transforming it" (*Ibid.*). In

²³⁷ He notes that "[b]etween the outside and the inside, between the external and the internal edge-line, the framer and the framed, the figure and the ground, form and content, signifier and signified, and so on for any two-faced opposition...[t]he trait thus divides in this place where it takes place" (Derrida, 1987, 12).

²³⁸ If one can talk about a "spectacle" of the community where certain visibilities such as the queer are exposed, speeches and acts performed, then in the lived situation all is "surrounded by performance, dragged into the circle of action, which gives them back their collective energy" (Rancière, 2007b, 274).

other words, the act of apprehension also takes part in the constitution of what the onlooker apprehends as a promise/threat.

I argue that the act of looking at the image also frames it within the configuration of domination and subjection. It becomes more than an exchange between the master and the slave in the scene of sovereignty where they both seek, violently, to impose their norm on each other. It subjectifies and identifies the other as the enemy who embodies a threat/promise that breaks with what one identifies with—as an exception to one's norm that makes one what one is, i.e., *the sovereign*.²³⁹ Here the analogy between the sovereign and the queer is useful. The attachment to the norm of recognizability makes it impossible to identify what appears as the unrecognizable at the present: we come before it, and from it, we receive the new norm. In other words, a democracy to come needs to take its future norm from the unrecognizable. "The 'unrecognizable' is the beginning of ethics, of the Law," Derrida says (2009, 108), because the sovereign comes before the law and comes before 'us' as the unrecognizable.

The images of the unrecognizable on the border of the sensible at the present betray the law of the sayable that deprives them of a liveable life amongst others and asks them to betray the norms making stories of some lives unsayable. They are acts of speech to the extent that they wish to break out of their frame, bring with them consummation of sovereignty, invulnerability of a life insulated from trouble that dwells within and thus leaves traces (hard) to ignore in the shared space-time of a people still limited by fantasies of its own sovereignty. They wish to be heard, seen, and talked to as equals in a shared life to come. The time of the sovereign has passed but it has a wish-to-live: it lingers. And the task of the present to build a democracy to come, I argue, is to seek conditions of mutual hearing and making peace between a sovereign ghost from the past and an unspeakable ghost from the

²³⁹ The sovereign is (outside) the norm as an exception because at the moment of legislation s/he makes the norm independently from all norms.

future not considered as living at the present. Those conditions framing and constitutive of an ethos can be established not without violence, but with a non-violent violence that will put some ghosts to their graves and give life to others, bringing them out their graves in life. The 'we,' when articulated by an act of speech as an unidentifiable people within a democracy to come, will find closure with its loss, grieve the ungrievable and disclose the foreclosed otherness it was estranged from if they have a wish-to-hear.

Butler characterizes the interruption of non-violent violence as "a certain crucial breakage [that] can take place between the violence by which we are formed and the violence by which we conduct ourselves once formed" (Butler, 2007, 180) Non-violent violence is directed against the violence of the past that forms us so we can dis-identify with the given subject position in a shared life. Re-reading the history out of an image of the past in order to arrive at the material conditions and the history of rules of speech-acts that violently framed it as a life, as somebody, as one of us necessarily refers back to violence of the founding moment of the society that renders some bodies as not one of us, formerly left out of the frame, or effaced, or misrecognized in the image. This would be a violent, unjustified act of speech to apprehend the unrecognizable, not because it would eschew all those norms of identification, recognition, and responsibility but it would appropriate, subvert, and re-interpret them in a living way to respond to the trouble of unlivable lives in a shared life at the present.

This ethical wish-to-hear, Butler suggests, could best be understood as an inner struggle with one's own sensibility to apprehend a life as life, and a risky opening to "the rhythm of transience" (*Ibid.*, 216). Sensitivity to life should not be simplified as respect for the living in their precariousness, or mere life in its finitude; if it is undertaken by a poetic gaze that seeks to see the silent image framed by the past and recover its history, the motivation is not only to enrich life by breaking apart the frame and hear a wish-to-live in the

silence of unlivable lives, but also violently re-orient this gaze on “another perspective on time” (*Ibid.*, 218) of the people that in their rhythm always already change in their elusive representations; the act of speech is performed mainly in temporal terms. The ethos of non-violent violence releases from the force of a violent past that repeats itself thus “opens onto a sense of time that refuses teleological structure and prediction” (*Ibid.*) and brings us closer to a democracy to come.

Therefore the figure of the stranger (i.e., the queer) in the image is produced by a frame from the past that violently limits, constitutes, and (de)subjectifies, but the frame interrupts and is subject to an interruption in its spatio-temporality. The frame captures an image of the people which can be traced back to its mythical constitution in the past, or followed up to its undecidable future if it is violently broken apart by an act of speech that points out the ghostly trace of others in it. The non-violent violence of an act of speech, I argue, is thus futural. It brings into the visibility of the present the past that frames it and a future shared life in a democracy to come unfettered by violence, hegemony and injustice. The next section aims to formulate justice as this movement of unconcealment.

8.2. *Justice to the Silent Ghost*

The last chapter aimed to cast into relief the dispersion of the present lives back into a strange past of the ‘we’ that has (never) been. And in the last section, I showed how Butler argues that the heteronomous constitution of our sovereign presence by a strange past defers our self, the possibility conditions of life into the precarious universality of norms violently established in an undecidable past. Those conditions that frame a shared life coincide with the contingent conditions of a life that is, despite the law’s claims to universality, beset by violence, inequality, injustice, subjugation, exclusion, and a primary foreclosure that sustain the fantasy of sovereignty and belie their universality. The historical fact of always already sharing a world with strangers who are not within our community, not our equal, unrecognized, unprotected within the citizenship-rights-duties framework, troubling the

universality of the law bears *witness* to the fragility of the present that can only recur by a violence of the Police that maintain the unacknowledged differential status between the ‘we’ and the people.²⁴⁰ As “we have to understand that what is ‘universal’ is constantly being made, it is constantly being articulated and re-articulated” (Butler, 2003, 120) the task of the present is to open by power to negotiation and re-appropriate in a living way the norms and conditions under which we are responsive to others in a world separated by matrices of power for a democracy to come.

8.2.1. *In and Outside the Temporality of Politics: Dispersion as Condition of Justice*

This would be an occasion to re-consider justice in a sensible world our self is disseminated over/into, where our lives are inextricably bound up with others’ lives, where the so-called universality of norms of responsiveness wrongs them, and our sovereignty may be the very reason why both we and others live unlivable lives, lives that are not our own, but framed or troubled by trace of surviving others that can be both promising and threatening, as well as the lives that have been already lived, lost, unlived and unliveable:

The “frames” ... also generate specific ontologies of the subject. Subjects are constituted through norms which, in their reiteration, produce and shift the terms through which subjects are recognized. ... Normative schemes are interrupted by one another, they emerge and fade depending on broader operations of power, and very often come up against spectral versions of what it is they claim to know: thus, there are “subjects” who are not quite recognizable as subjects, and there are “lives” that are not quite —or, indeed, are never-recognized as lives. (Butler, 2009, 3)

If this is the frame of the violently foreclosing ontologies, it is also the normative frame of what can be seen as rightfully belonging within the frame, what is witnessed, recognized and can be responded to within the frame. And a life is actually lived both inside and outside the frame, dispersed into a wider setting, space and temporality. I argue that this is the situation of the people, sometimes acting as the ‘we’ and sometimes exceeding their normative representation. Butler sets out in a new direction in *Parting Ways*, asserting that “dispersion

²⁴⁰ That is the same gesture as, in Lyotard’s terms, to “bear witness to the *differend*” (Lyotard, 1988, xiii) elaborated on in the second chapter.

is a condition of possibility for thinking justice" (2012, 5). Dispersion over/into a world we share with otherness is to be understood as multiple traces in what makes possible our presence and the presence of what is not quite present in our frame, unacknowledged, unseen, unheard and un-responded to. The non-violent violence of the gesture that indicates their ghostly trace that constitutes our self, discloses their unseen image within the frame of our lives, articulate their bodies as somebodies we can hear, and challenge the frame in which "the only lives that could be construed as living were living in a certain way, conforming to a set of norms" (Butler, 2003, 115) is *justice in the sense of hearing the inaudible voice and bearing witness to what is suffering the violence of the Police*.

Likewise, I argue for the conception of justice developed in the fourth chapter on Lyotard's understanding of it as an obligation to respond to the constitutive "before" critically and bear witness to what comes before us as the unrecognizable by present norms.²⁴¹ If this can be construed as a wish-to-hear the voice of threatening strangers suffering *our* violence and living unliveable lives, the violence consists of limiting what we can hear to justification, confirmation and maintenance of the 'we's sovereignty. The justification for our violence follows the lines of self-defence that nullifies the persuasive power of any other account that challenges the hegemonic structure of the sayable: the stranger at stake has always *already* imperilled our power, life, or way of life and gets what is his/her due. The traditional justice of an-eye-for-an-eye, as in the case of American 'war against terror' following 9/11, Butler writes, brings together the image of the victim with the sovereign people rightfully responding to a loss with justified violence. Thus "a frame for understanding violence emerges in tandem with the [past] experience, and that the frame works both to preclude certain kinds of questions, certain kinds of historical inquiries, and to function as a moral justification for retaliation" (Butler, 2002, 58).

²⁴¹ Lyotard "promises a justice without law [and] a politics without normative principles" (Dunn, 1993, 194), where without a program (Lyotard, 1988, 181), one can only bear witness to the present, present suffering, present wrongs, and the silent presence of those who demand justice.

The frame “decides, in a forceful way, what we can hear, whether a view will be taken as explanation or as exoneration, whether we can hear the difference, and abide by it” (*Ibid.*).²⁴² In a similar way the power operative in constituting a domain of the unsayable also decides what we can see on the media and what these images of war say. Butler investigates the *insensible forms* an otherwise power takes through its embodied, lived effects on the public as “[v]iolence against those who are already not quite living, that is, living in a state of suspension between life and death, leaves a mark that is no mark” (*Ibid.*, 36).²⁴³ The image that troubles and marks lives lost, wounded and wronged is thus marked as unmarkable. The point is not to condone violence, but to disclose how the framing of what can be seen and heard (Butler, 2004, xx) aims to silence the message these images convey silently: about lives lost and not mourned, our own violence disguised as justified self-preservation, and suffering of others we assume we have nothing in common.

The relation between the sayable and the visible within the self-justificatory normative frame of a vengeful politics is in fact manifold. Butler brings into our view not only the frames that both show and limit, disclose as much as they conceal, replace and displace, and efface while giving a face to the other (*Ibid.*, 36). She also indicates an ethical resource to bear witness to the survival and return of what is foreclosed from the frame to make a demand on us. With this aim Butler invokes the ethical and political implications of a *just* relation to alterity we *always already* share a life with that interrupts the way norms interrupt our lives. As a paradoxical power, a force in recoil, the power underlying ethical

²⁴² Disagreement with this narrative framework that makes sense to those among us hurt, injured and mourning, in order to give a broader account that involves a narrative of the past conditions before 9/11 that may have laid the setting for the present, (or for our *own violence* at the present), is equivalent to nonsense, treason, moral equivocation, or unsightly at its best.

²⁴³ The politics of revenge commanding that the war *must* go on, circumscribes what can be sensed in a regulated public where only the pictures of liberated Afghani girls throwing off their burkas, bin Laden’s evil face, victorious American soldiers hugging Iraqi children circulated freely (Butler, 2004, 141-143). The images of coffins covered with the American flag (Butler, 2009, 65), mutilated bodies of civilians in villages barraged by U.S. army, wounded, hungry, bewildered children covered in blood, or tortured war prisoners detained against the Geneva conventions in Guantanamo, however, were either strictly censored, waived away as inevitable collateral damage, or dismissed as a treason-like project by excuseniks that undermines American sovereignty in hard times.

relations expand, break apart and lift up the frame that limits our lives by the life-giving force of differential ontologies that violently constitute the 'we' as an unchosen archive. *It dis-identifies* us with an unchosen identity.²⁴⁴ I argue that although this constitutive address defines the parameters of a responsiveness that is crucial to a shared life, it does so by limiting our responsiveness to those who *witness* and internalize its force, and enact an identity of the recognizable in the archive. Butler notes that "[s]ubjects are constituted through norms which, in their reiteration, produce and shift the terms through which subjects are recognized" (2009, 3). The grids of recognition, however, also foreclose certain identities that do not conform to our norms (Butler, 2003a, 110; 115). The conditions under which "we find that we are responsive to other human beings," (Butler, 2003b, 103) coincide with the conditions of apprehension and lonely responsibility where we grant or withhold recognition. The aporia of recognition is such that if one is addressed differently, by a different law, or by the self-same law but in subjugating, excluding, foreclosing terms, one becomes a stranger, in or outside our community as not-one-of-us we respond or recognize, in a differential, power-based and probably agonistic relation to the sovereign self of the people.

Here I aim to trace the paradoxical *temporality* of the political. Being present in a community of sense is predicated on conditions of responsiveness preceding the present, traceable to a strange past of the law that violently constituted, on differential basis, who we are to respond to as a part of the people that make the law. And being addressed is the precondition of a response (Butler, 2012, 173), an opening to those who come before us and to what is to come in the future. The unrecognizable others demand a response even if they, although within the community of the people, are not present in our community of sense,

²⁴⁴ The relations an ethics of responsiveness discloses are not chosen either because the relation to alterity constitutive of our selves and responsibility precedes the ontologies of the archive that justify our responses. But whereas the ethical force reveals and testifies to the 'not-me' as a stranger integral to making sense of 'me,' the power of the policing past marks 'me' as a negation of 'not-me,' to capture me as a fixed identity in the archive of the 'we' in opposition to 'them,' a petrified figure of speech embodied as a national, racial, gendered, classed, aged identity among us we respond to as one of us.

addressing us from an impossible future where they will be heard and responded to as the law-giver. Their unacknowledged presence points to a possible future unfettered by the past, and to a democracy to come where they will be recognized and included under new norms of recognizability. When we realize that the life of the people who seek their norms is scattered among temporalities that make a claim on the present, spaces neither inside nor outside the living area of the society, and unliveable lives of strangers with undecidable identities that make up the people, this comes as an acknowledgment that "sovereignty itself will be dispersed" (*Ibid*, 6) in the aporia of the people. In fact the sovereign address always comes from a place/time outside of the present, outside the present self, from a past that survives toward an (im)possible future. We are addressed by a wandering people, a ghostly sovereign treading along and beyond the spatio-temporal horizon that no image, no figure of speech can do justice to unless it too is caught within the gesture of self-differentiation.

If the people is split within, internally divided by the force of a violent constitution that interrupts our lives, this does not only herald dissemination of sovereignty over an undecidable spectrum of times/places/identities, and across socio-political worlds. It also indicates justice as another kind of sociability that *interrupts* our community of sense secured by socio-political relations allowed for by the archive.²⁴⁵ If an address survives the unliveable life inherited from the past that has a grip on the present, the future life of the law and the people chasing after it must also be sought in and excavated from it and brought to bear on the present in a new light (Butler, 2012, 8). For Butler "only by 'ceding ground' does an ethical resource from the past come to thrive elsewhere and anew" (*Ibid*) where this ethical resource expels our selves from the frame that fetters our receptivity to demands from elsewhere we do not necessarily have a sense of belonging to but nevertheless perforce belong. This resource for justice that brings us together on an unchosen ground is *our*

²⁴⁵ An "interruption" is the interval between two ruptures (i.e., unexpected constitution), two emergences (of the people and the *aporiai*), and two emergencies (of justification and justice).

constitution by strangers as strangers to ourselves that always already dis-identify with their selves. The ethical relation of justice does not capture the people in a frozen image within a fixed frame, but leaves open the question of who might embody this strange figure of address. To conclude, to accompany a people through an aporia of suffering and hope, wandering across geographies and histories in pursuit of their own representation, counter-acts the violence of the Police that guards the borders of nation-states, limits to identities, and spatio-temporal frames of a shared life in order to stabilize, immobilize the people forced to re-enact a past unceasingly.

8.2.2. *Justice to the Particular: Universalism and Temporality*

Butler finds the neutralizing power that meets the power of the past in an address of what survives a shared life it was foreclosed from. I argued throughout my thesis that there is a creative tension between the 'me' and the Generalized Other in Habermas' terms. As the tension is of the ambiguous force between the 'I' ('character') and the 'we,' the present task of justice, she argues, is "to reconcile the particular with the universal" (*Ibid.*, 42) that expulses it from a shared life it conditions. The task is to reveal historical conditions of the foreclosed other's survival under which the law can be re-iterated and subjected to deviations and unexpected sequences by this ghostly other demanding inclusion and recognition. "This universalism, this justice, 'moves into history,'" writes Butler, "which suggests that it originates in a non-historical relation, synchronic, and somehow passes over into the historical or diachronic" (*Ibid.*, 43); to conclude, it breaks with the present distribution of identities, and present sensible conditions of the 'we' under the sovereignty of the violent past, ruptures the recurring time to disclose *the present as a time of the people out of its joints, them as anyone, here as anywhere, and now as any time.*

If "we have a sense of one force entering a certain established horizon," (*Ibid.*, 103) if there is a historicity to the norms that constitute the image of the 'we' by a violent address,

there is also a cohabitation of times at the present. When the petrifying force of the past is contested by re-iterating and turning it against itself, “a struggle for the past which is the only way to transform the present” (*Ibid.*, 113) reveals a concealed and congealed contemporaneity structuring the present immobilized by a force. The force of non-violent violence reveals and releases it. “Its effect is to interrupt, reorient, or pull the break on the politics of this time” (*Ibid.*, 106) and can only do justice to a people suffering unliveable lives if it succeeds in contesting the eternity of unjust norms inherited from a past, and representing them as a new ethical resource from which an otherwise, non-normative norm of sociability can be derived for a democracy to come. The history of the oppression, marginalization, exclusion, foreclosure, and other kinds of violence done in the name of the law thus shows the universal has been conditioned; and that the lack of unconditionality is what one responds to in a lived relation to the material conditions of a shared life. If a dual gesture is to be imagined, it needs to return the law to its imaginary past that threatens, and promise a future life derived from it.

If the universal can be shown to be empty, i.e., as I argued in my thesis, its addressor a stranger, and its address without any justifiable or informative content, it can be re-iterated by foreclosed strangers, against the violence it exercises, in the name of those lives rendered unliveable under its present rule. In a sense we always already respond to the dark history of the law that constitutes us as witnesses to its force: as Habermas argued, we identify with its life-giving power to be a part of the ‘we,’ or as Lyotard argued, we survive in a shared life centred on the foreclosure of our presence. Here speech as re-iteration of sovereign strangers who silence us takes on a (non-)historical importance. Although Lyotard warned us that the address that comes from the borders of the sensible is more a silent conveying of power than informative speech or demand for justification, speech, as in Rancière’s understanding, can also be employed to indicate and re-articulate what survives on the threshold of a shared life,

unrecognized as our equal, unprotected, and un-responded to. If anyone can be its addressor, pointing out its unacknowledged presence, insensible under a forced distribution of the sensible, one can do so by moving in the direction of an imaginary, impossible relation, an imaginary imaging, deporting the self towards an anonymous figure of speech that can be embodied by anyone, and departing for a time *outside* the history of sensibility.

In other words, when one wishes-to-hear the silent voice of the suffering, oppressed others one acts as if one was the sovereign, being (outside) the law. One can imaginatively embody the figure of the sovereign as (an exception to) the norm it (un)makes. An act of speech in this context would aporetically (dis)regard the law it invents. In Habermas' theory, an act of civil disobedience is lawfully lawless as long as it is constitutional and aims to bring a change in the law through non-violent violence (1985, 135). Rancière holds these acts of dissent to be a re-enactment of the constitution of community in the regulated distribution of the sensible; when one performs a dissenting act of speech one "set[s] up a community by the fact of placing in common a wrong that is no more than this confrontation" (1999, 27) between the norm and what is supposedly outside it; i.e., the sovereign. This discursive operation for Butler takes the form of a lived relation to the image of an alterity "expelled from its frame, and this is the disorienting trajectory of moves both ethical and counterhegemonic" (2012, 22). Bearing witness to this image as demanding a response vindicates the radical equality of a stranger that survives the foreclosure from sensibility, foregrounding impossible "ethical relations that makes us ethically responsive to those who exceed our immediate sphere of belonging and to whom we nevertheless belong, regardless of any choice or contract" (*Ibid*, 23) that may be the ground of any sociability. The image of a stranger living an unliveable life is what demands a re-articulation as one of us, subject to the same ethical law, worthy of being addressed as a part of the 'we' even when it is our enemy. The stranger can also arrive at our borders and frame of our lives in the form of a silent body

articulating our wrong. And we are authorized by the present law to turn back, ignore, hurt, even kill him/her because s/he is not *somebody* in our community of sense, not one of us whom we are ethically obligated to respond to by the universality of the categorical imperative. If we cannot bring us to respond to a stranger, s/he is most likely an enemy, or a stranger 'we' wronged.

In fact, we refuse to respond to this image because it is not somebody we sense we are responsible to, and our responsiveness hits its limit at the sight of this stranger because taking responsibility for its suffering would undermine our sovereignty. Reading Levinas, Butler concludes that "[w]e do not take responsibility for the Other's suffering only when it is clear that we have caused that suffering" (*Ibid.*, 43). In the context of the Israeli-Palestine conflict where each side caused the other's suffering to some extent, the universalizability of an ethical principle that contests and challenges the universality of the present ethical principle can be invoked by any body that embodies any identity suffering under the lived conflict that forecloses responsiveness.²⁴⁶

In other words, an ethical response to the wronged would imply taking responsibility for the wrong; and responsibility to other would subject us to the future law that we receive from him/her/it. It would submit us to them, and submission and heteronomy would destabilize our sovereignty and autonomy. In a democracy all ought to take part in the (un)making of the law; the sovereign is an anonymous figure. Even the foreigners, refugees, the *aporoï*, and the queer can make a demand on us as one of the sovereign people when they suffer. The universalizability of the wrong is matched by the anonymity of the sovereign. And not to hear others as if they are one of us is not only wrong; it also implies violence in the sense of the inability to re-appropriate the law, incapability of learning from our past

²⁴⁶ It is not due to some forgivable naivety on my part that I conceive unliveable the lives of Israelis who have the upper hand in a struggle characterized by an asymmetry of power. A life within the policed borders, under the imminent threat and what Benhabib terms "paranoia" (2013, 158) is not unlike the unliveable life lived by Antigone in a tomb with normatively regulated walls.

mistakes, and incapacity to change through a risky response. To conclude, a shared life is defined by risk, learning, growth, richness of understanding, responsiveness to the situation by change and transformation. That which does not change cannot live either.

Benhabib worries that the ethics of responsiveness Butler outlines remains “without normativity” (*Ibid.*, 151), in an ambiguous relation to universal principles, norms and laws, and risks condoning violence exerted by Hamas and Hezbollah. I have been attempting to respond to this line of reasoning with a thinking of the aporia of norms. In Butler’s thought, just because present norms are wrong, wronging, violent, limiting, foreclosing and pre-emptive of responsiveness, it does not mean, I argue, that we cannot derive a *non-normative norm* operative in her thinking. Such a norm might be the necessity to respond to the emergency of justification understood as a “formalizable set of rules” that frame our lives by violence. Similarly Lyotard too argues that we need to respond to *differends* with lateral thinking, the innovation of a new norm and the future principles of a shared life. Justice, however, requires doing injustice to the norms that wrong, returning to the moment of law-instituting violence to un-instate law-preserving violence. At this moment we find the law undoing its own very formality, and if a violence is involved in this process, it consists of power in recoil. To conclude, the paradoxical moment of addressing the law that has always already addressed us is the attitude of “as-if,” which is also a Kantian move in his *Critique of Judgment*.²⁴⁷

The symbolic operation of universalization for Kant is a rule-following that cannot be grounded in content, or the rules followed (*Critique of Judgment*, 1996, 59, 196); it, too, is an

²⁴⁷ Judgment as subsumption of singular individuals under a rule (*Critique of Pure Reason*; 2003, A 132, B 171, 177), Kant argues, is universalization and unification but it brings about a projected unity (*Ibid.*, A 647-B 675, 535); it is a regulative ideal that cannot be justified by the character of the judged, but acting on it *as if* it can realize the ideal. We act *as if* there is a unity, i.e., a ground of the law; and we act as if it is justified. In the case of the aesthetical judgment which is “a special faculty for judging of things according to a *rule*, but not according to concepts,” (*Critique of Practical Reason*, 1993, VIII, 31), judgment cannot even be defined by the concept under which the judged is imaginatively brought together; it remains a procedure of as-if where we act as if the concept is definable.

acting as if judgment is (im)possible. The judgment of the sublime proves even (im)possible as it is unlimited, and eludes norms, or concepts it is subjected to. All is a Formless infinity, the determination of which the understanding is incapable of via the qualitative limitations (*Ibid.*, 25-26, p86-96), but can nevertheless judge.²⁴⁸ In all cases judgment is a *violation* of the unity preordained by the law of understanding cooperating with the imagination (1996, 27, 97), and it is violence *par excellence*, because it cannot be grounded or justified; it is purposively purposeless so that the subject of the law can be free.

In other words, law-making is subject to no laws but its own; the procedure of the as-if. In its violent and imaginary character, however, it orients us: it is lawlessly lawful and *futural*; it guides us toward action, change and transformation of what is present before us. To make the world, one needs to judge the world into what it is, *and judge oneself into what one ought to become in this world*. Judgment is creation of the future self and the future world as they ought to be. "Therefore the feeling of the sublime in nature is respect for our own destination..." (*Ibid.*, 27, 96).²⁴⁹ If the procedure of universalization and law-making in Kant's thought is lawfully lawless, groundless in grounding the law without a guiding concept or norm, it nevertheless addresses us to a future of greater justice. We respond to the other like, as Lyotard suggests, we are before the Sublime; wronged by a norm of presumed universality *as if* other is anonymous and hence *generalizable* without an identifying concept, but nevertheless responding to the very *singularity* of historical conditions that situated it as if s/he is a non-generalizable other within our sensible world. I argue that we are neither outside nor inside the normative domain, but on its temporal borders that disorient our rules.

²⁴⁸ According to the distinctions established in the First Critique (2003, A 141-B 180; 183), in the reflective judgment the conceptual process is missing and it is similar to the schema of a category *only* in that it "is a transcendental product of imagination, a product which concerns the determination of inner sense in general according to conditions of its form (time), in respect of all representations...in conformity with the unity of apperception" (2003, A 142-B 181, 183).

²⁴⁹ The subject uses judgment to *violate* laws one makes, i.e. as the Sublime, for its Freedom (*Ibid.*, 29, p110-111). Although it is unity, the whole, the law, that has priority over the individuals, and the parts (*Ibid.*, 77, 256), as to the whole and the law, the subject needs to act *as if* it is purposive to the whole, in my reading of Kant, for law is "*as-if a law*," because it is *aporetic*.

8.3. *Face, Life, and Death*

I argued in the last section that the non-historical moment of the 'as-if' is inserted into a gap forcefully opened up in the people's time, when enforceability of the law is neutralized by its own power in recoil, returned to its mythical past imagined to be otherwise, re-iterated in order to dis-identify with the 'we' and derive an other-oriented resource for our ethos. This futural force imagines and re-presents our strange present as the recurring past history of oppression, foreclosure, suffering and violence, and the image of the people within the same frame as their other, the wronged, unrecognized, suffering and unliving. *Co-habitation* as Butler expands upon it, is the force of a shared life forever divided and brought together by the image of the self coextensive as the other, the inside as the outside, and the past as the future. As I argued is the case for Lyotard, there is no exit option within the ethical (no life, no death outside the domain of the law), and Butler takes this force, although not coercive, to be the power of the socio-political life one is "without power to turn away from" (*Ibid.*, 55). The moment we are addressed by wronged others who "offer a kind of injunction that is irreducible to coercive law," (*Ibid.*, 73) we take a risk; we may respond to the address of the antagonized *as if* it has the force of the 'must,' our law in Lyotard's terms, though, as I argued drawing on Lyotard's reading of Levinas, it says nothing that can obligate us. Or we may risk turning away, or killing it, but killing others is not the same as killing otherness constitutive of our selves continuing to address us. In fact as Nazi Germany illustrated, it is tantamount to the suicidal movement of a shared life.

8.3.1. *The Saying of the Face*

What we face in the face of the Other, and what we rely on in trying to turn away from it, Butler says, is "a power that is not properly our own," (*Ibid.*, 55), but *a force of relations scattered over a shared life we cannot choose not to share it with others*. As the force of an ambiguous social bond between the 'we' and 'them,' between 'I' and 'other,' and between 'I' and the 'we' cohabiting our present and our presence, it survives the death of others we owe

our identity, life, past and future to. As I have been arguing, our selves can only make sense in the lived relation to foreclosed others, a strange relation of a double negation of strangers that expresses me as not not-me, and placing not-me at the heart of me. Although it is an imaginary (dis-)identification that feeds the fantasies of sovereignty by unacknowledged violence of primary exclusion and deathlike lives, the foreclosed other is *always already* included in a life we cannot unchoose, cohabiting in a self we could not choose, in a world we ought to/must share with it in relations that are not our design. As long as we live and re-live our past as our petrified present that placed the insensible other as the condition of our sensibility, it will survive its imaginary death.

Lyotard's account of the silent address of 'the jews' surviving death is parallel to Butler's interpretation of the suffering that can be expressed by a body silently. Just like he argues that different phrases of the situation of conflict from the same regimen can be linked or translated into each other (1988, xii), Butler thinks we can simply be addressed by *somebody's* suffering, presence or absence when "we are addressed by others in ways that we cannot avert or avoid" (Butler, 2004b, 130). The address is constitutive and disruptive of sovereignty for both thinkers²⁵⁰ and Butler suggests it forms authority and interrupts one's authority as will (*Ibid.*). More importantly both Lyotard and Butler share a concern with the ethical moment in the agonistic political.

When it is argued that the Other can be and is killed all the time, Butler says, "this is another way of claiming that the political supplants the ethical" (2012, 55), as the 'must' usurps the power of the 'ought,' and an anonymous addressee the place of the singular Other in the dyadic relation of the address. Yet Butler, turning to Levinas, reads him against himself and hopes to find how the ethical relations *survive* within the domain of the political of

²⁵⁰ Lyotard writes that "[t]he people is not the sovereign [but] the defender of the *differend* against the sovereign" (1988, 144) where others demand to be heard as the sovereign people.

anonymity which threatens to take over and dominate it. Re-iterating Levinas' interpretation of the commandment 'Thou shall not kill' Butler writes:

...it is this commandment ... that the face conveys, that this commandment compares the very meaning and 'saying' (*le dire*) of the face. When he refers to the 'face of the other ...', where the face is a voice, and where the voice does not emerge from the face, through the mouth, but is another name for the face... We are given this face as a voice and thus asked to allow this particular mixing of metaphors between what appears and what is heard (*Ibid.*, 56).

Therefore the face one faces is not only a face but also a voice that addresses us when the audible is dispersed over the visible. The face acts to the extent that it speaks, and it shows, discloses, makes visible to the extent that it acts; it is an act of speech that disorients the norms and normative distribution of the sensible as Ranci re argued. But it all happens on the borderline of speech and action: although what it says can be expressed in words, it does not necessarily say them. And although it has an effect on us as we *sense* that we are addressed as if someone forcefully grabbed our arm when we did not hear them calling out our name, the face remains still. Therefore there are distinct modes of address that can nevertheless be translated into each other, or re-phrased as Lyotard puts it.

It must be stressed that the situation of this address was conceived by Levinas to be the *war*, that the addressor and the addressee are "aware of the vulnerability of that other, that the other's life is precarious, exposed, and subject to death; but one is *also* aware of one's own violence, one's own capacity to cause the death of the other" (*Ibid.*). In other words, the inaudible voice of the stranger's face threatens us with death and promises a life peacefully shared with others, its force precisely coming from the same ethical resource as the ground zero speech-act of the political in Habermas' theory: the constitutive address of the law that establishes our self, community of sense and possibilities of action and speech as a society of *strangers*. The situation is both dyadic, between the self of the people and its others, but also plural, disseminated into many others that have and will have addressed us. The temporal gap between the two modes of address is closed by the law-preserving violence that re-stages the

past of our constitution as the present that forecloses the fact that here and now we are asked silently by the foreclosed stranger to let him/her/it live amongst us, as one of us, our equal, an authority in the shared life of the people, who in their unidentifiability, remain strangers to themselves.

Thus the image of the stranger (which is a catachresis also imaginable to be a suffering body, a cry, a historically constituted image and a commandment (Butler, 2004, 77)) *testifies* to an unliveable life wronged by the violence of the strangers from the start, by the material conditions of a shared life that have always already defined it as the enemy. The image bears witness to the past which offered life or death by the authority of the strangers we have been exposed to, at the present when we are exposed to the stranger offering life or death by *the same force*. Just like the voice of the law its force has nothing to do with the informative content of speech, but it says in metonymic terms. The saying of the face consists of imagining what the image of the stranger bespeaks, finding it in our own embodied, lived and living past, but it nevertheless forces us *not to be indifferent* to its death it can never die as long as we live unliveable lives: it asks us to dis-identify with our selves. This is not only a moment of (dis-)identification, dissolution of fantasy/misrecognition but also a revelation: once we respond to the force of the stranger's address *as if* it is our law, the enforced conditions under which we, too, have been wronged, perforce living an unliveable life of war, hatred, disgust and guilt are revealed to us. We come to the realization that we have been fighting the war of strangers from the past we were coerced to identify with in order to survive, seeing our own image in the face of other we share nothing but a life that is not our own.

In Rancière's terms, the functionalist distribution of the sensible underpins the differential allotment of identities to the subjects of a shared life by the address of the law

(Rancière, 2004a, 12-13).²⁵¹ In the situation of domination, conflict, and subordination, the unchosen identity negates formal principle of equality in practice; the slaves, the plebeians, the subaltern are subjectified paradoxically as an excess, or waste, without political rationality, understanding, or articulateness, unequal to others (Rancière, 1999, 23). When the dissent of the subordinated, such as the plebeian insurrection on Aventine Hill, disrupt the distribution of the sensible, however, it occasions a scene of revelation and recognition where the subordinated are disclosed as equal to the dominating subjectivities: “they [the slaves on Aventine Hill] establish another order, another partition of the perceptible, by constituting themselves ... as speaking beings sharing the same properties as those who deny them these” (*Ibid.*, 24). The subjectivities are disclosed as *strangers* to their differential representations (as the inhuman slave, or as the superior patrician), and equal to the face present before them that disrupts the formalizations. The equalizing force of dissent also re-articulates the struggle as one between the hegemonic representations inherited from the past. But one can dis-identify with these characterizations in an action with character (dissent) that re-constitutes the shared life in which one’s (or slaves’) actions can have consequences for others (patricians). Although Rancière does not reflect on the ethical ramifications of the situation, the act of recognition also reveals the constitutive status of others for the self defined by a precarious relation to it that can be altered by action. The obligation is not that of self-recognition; it is rather the recognition of this constitutive relationality which places one outside oneself, as a stranger to oneself. This is the reason why the slaves’ newly-found voice was heard and responded to as if voiced rationally by a sovereign consul. To conclude, recognition is directed to the precarious relationality between the self and the other, not to identities.

²⁵¹ The subordinated addressed differentially perforce internalize their roles due to the dominating force of the Police that both subjectifies and control subjectifications that are equalized, i.e., in part universal, impersonal, and categorical; one becomes a subject through heteronomy (Rancière, 1992, 59-61), i.e., submission to the overarching rationality of politics that, in the lived situation, already imposes on one a function, a way of thinking, seeing, feeling, acting and speaking.

8.3.2. *Wish-to-hear: The Face as Our Own Voice*

Wishing to hear the voice of the face as our own voice, as Butler elaborates in discussing Arendt's final judgment on Eichmann, requires recognition of the *singular* self disseminated into the voices of strangers that *we are* (*Ibid.*, 57). The decision to hang Eichmann situates sovereignty in the plurality of the Jerusalem judges, the victims of the genocide, those who care about victims, and Arendt herself who identifies with them all in her book on the trial without re-asserting her singular self; "her voice becomes entangled with theirs, nearly knotted up in that plurality" (*Ibid.*, 164). The moment of judgment that requires a certain splitting of the self (*Ibid.*, 154) is parallel to the constitutive moment of subjectification in Habermas' thought explored in the second chapter. The self is disrupted by the voices of the plural, split from within, dis-identifies with itself and identifies with the voice of the Generalized Other, i.e., the law: the 'I' speaks as if it is (outside) the law. The voice of the sovereign people finds its universalized articulation in the plurality of people who address and make demands on Arendt. She is asked to make a legal judgment on Eichmann who wronged them.

In identifying with this plurality and re-iterating their speech Arendt's voice articulates an *image*, that of the sovereign judge, but this articulation, "as a voicing that is attributed to the judges ... seems to mark a departure from her own voice" (*Ibid.*, 164). Similar to Tacitus' voice entangled with Percennius' mute speech in Rancière's theory, it is at the same time both her own voice, and the voice of thousands who suffered. She becomes the discursive site of an inner *estrangement* and oscillation of identity; it subjectifies an "I" as a *representation* that is both/neither Arendt and/nor the plurality. As "the voice of the judge repeats Arendt's own subjunctive ventriloquism," (*Ibid.*, 165), her opinion becomes unrecognizable within the pluralisation and final universalization of voices. She becomes unrecognizably identical with the 'we,' or identically unrecognizable in the 'we,' a stranger to herself except for the strange effect of individuality that distances itself from them. She at

times takes issue with their justification of the decision, norms it may be based on, subjecting the mob of voices to critique; that is the undecidable effect of the split within the representation of Arendt's self which does not let one decide who is speaking—Arendt, or the sovereign 'we'?

"The unattributed 'we' allows Arendt's own voice," Butler continues, "to cohabit with those of the Jerusalem judges in this voiced reconstruction of a decision" (*Ibid.*, 166) and re-enactment of sovereignty. In my reading of the text, Arendt has a wish-to-hear the voices of the plurality as if it is her own voice; to conclude, the discursive articulation of an "I" couched within the "we" is, I argue, *the epitomized form of subjectification and recognition where the singular self is disseminated over in the mob in the act of representation*. Arendt becomes a stranger to herself in the process that forms her innermost self. She thus hears the obligation others placed on her and judges quite un-sovereignly, deriving a novel norm from the scene of co-habitation of voices: no one ought to be able to choose with whom they share the world. We share an unchosen life with under the limited universality of the same force that gives rise to "concrete political norms and ethical prescriptions emerg[ing] from the unchosen character of these modes of cohabitation" (*Ibid.*, 151). The universality at stake seems to be 'weak,' partial, contestable, lacking the preserving force of the law, metonymic, derived from a lived and representative tension between 'I' and the plurality cohabiting within the life of the people's self, i.e., the 'we.'

Yet, although the tension is experienced as an inner struggle in solitude facing the stranger, it is not resolved by the sovereign self, calculating, choosing, deciding and successfully acting on its choice between response and irresponsiveness. The decisionist counter-argument relevant here suggested by Habermas was that the individual child develops a critical capacity to take responsibility for his/her action even when the universal norm regulating it is in the wrong, and choose the right thing to do by demanding justification

for the demand. Yet if the demand the image conveys is, as it is, to disavow one's own self, sovereignty, individuality, and choice always already *decided for one in the past* that preclude justification of the demand, the ethical resource for a risky response to a demand that says nothing that can justify or obligate *cannot be the self preserved* in the process. One may of course calculate the consequences of not responding, sensing the impending violence and fearing for his/her life when facing the threatening stranger but unless we wish the same for the enemy, the motivating force of this reasoning has a compromised, conditioned universality.

And if we *do* wish that the enemy of our past lived and wish-to-hear the commandment of its face, we would have to undecide what has been decided for us, dis-identify with our representation, the 'we,' our community, particular law, and limited present, being estranged to the strangers from the past, by a stranger's strange address, taking the first step toward a future community of strangers in a democracy to come. This would be a response that is sensed by the 'we' to be violent, making us unresponsive to the violent past, one 'which depend[s] on no external authority for its legitimation and [is] futural in its orientation' (*Ibid.*, 153). When particularity is dissolved within an aporetic universality characterized both by antagonism and solidarity among strangers, the justification comes from a self revealed to be an image (i.e., a representation) cohabited by an unchosen plurality that keeps asking: Who am I, and more importantly, who are we? Could this stranger be one of us?

A wish-to-hear seeks the future principles of the 'we' in what is to come; in Derridean terms, a promise to relate to others' address justly in a community to come.²⁵² The image of the other thus demands a response that dares wish and imagine a self that can hear the

²⁵² Derrida elaborates on this concept as a promise, "not something that is certain to happen tomorrow, not the democracy (national or international, state or trans-state) of the *future*, but a democracy that must have the structure of a promise-and thus the memory of that which carries the future, the to come, here and now" (1993, 19).

foreclosed other. It asks the self to imagine how our strangeness can be a pre-ontological universal that defines an unlimiting and unlimited community of sense where neither disagreement with the present nor a hope for an otherwise future is foreclosed. Being a stranger to ourselves implies we have yet to invent our selves, representations, norms, and material conditions of a shared life; it means democracy has yet to come. The demand of self-creation that debunks all ontologies of the past, Butler hopes, can find a resonance of the other's strangeness in our own strangeness, in a life brought together within the frame constituted by strangers in the past. If there can be a rupture in the time of the present people that live the violent past for ever, estranged to themselves by myths of sovereignty, the force motivating can only be found in the shared history of strangers who have yet to learn to live together in a democracy to come.

When the image's frame is expanded, and historicized by this force to reveal the troubling strangeness sharing our lives, the image of the silenced other is revealed to be a temporally shifting position in the address embodied contingently, under the material conditions of a shared life that at times assigned 'the jews,' and at times 'the arabs' to that position. And when both the self and the other are disseminated over a spatio-temporal horizon of an unidentifiable 'we,' that is the people, one can always find a shared past, like the moment, Butler emphasizes drawing on Said, Jewishness was and still is constituted by the Arab: Moses, and the Palestinian.

Conclusion: An Otherwise "We"

I have been following the question of what *power* the call of an unidentifiable stranger may have in its silent image if s/he/it does not have the authority to speak as one of us; one needs to represent him/her/it, speaking for a silent body. In my thesis I have argued, by drawing on Lyotard, Rancière and Butler, that a future democracy can be principled by the obligating address of the silent others. And in order to bring about a democracy to come, it needs to have a force that disrupts, unmakes and re-makes. Butler answers that this is the same power

as the constitutive power of the law that has no origin but the mythical past that articulated our bodies as somebodies in the archive of the 'we,' and foreclosed one as the stranger within us. But "[t]he one is articulated within the other and in this sense speak to, address one another, cannot be thought outside this mode of address," (*Ibid.*, 215), Butler concludes, referring to the *futural mode of address* in which the image demands a response from us. The face of the other is a historically constructed image, and hence limited, and limiting our response to the 'we,' but the image demands a response that violently ceases to respond to the violent past that constituted the 'we,' and an imaginative response to a possible future when we acknowledge the 'we's' unchosen articulation within what it has been foreclosing from its community of sense. This is the situation of the image's silent address within an 'unwilled proximity, the modes of being bound together in antagonism and without contract' (*Ibid.*, 217) in the form of a speech-act that justifies our presence and the present. If it is the present norms of constitutive speech-acts that articulated our bodies as somebodies and formed a community of sense by the unacknowledged reference to what it has been foreclosing in the myths of justification and sovereignty, the norm that would guide our response to the image would necessarily be unjustified, violent, and coming from an *otherwise place* than our normatively-limited community that precludes communing with the stranger.

Surprisingly this otherwise place is none other than our own past, our own self, our own community imagined and lived to be otherwise if we can struggle with the preserving violence of our identities, sensibilities, and limits to our community that preclude a wish-to-hear. Therefore the demand the image makes on us is about imagining and embodying new forms of articulation without enforcing them, but the ambiguous force of the social bond survives in the claim for justice to the invisible, inaudible, and un-responsible that demands to be seen, heard and responded to as if they are one of us. In my thesis I investigated the possibility conditions of a justice beyond the law; Lyotard argues that it is a just response to

differends. Rancière formulated it as a re-distribution of the sensible. To conclude, justice implies giving a response to the unauthorized presence of the unrecognizable strangeness constitutive of us all without an accompanying ontology insidiously enforced by the Police; not only to the wronged Other that has no place in the archive, but the 'we' that has an unfinished future obscured by its past constitution. In this sense, the silent presence of the unliving makes a demand on us to be seen as the unrecognizable remnant of a material history of the political community that has been foreclosing and wronging them. Yet the foreclosing past can be re-read to uncover the contingency of norms that constitute and authorize the archive of the people and form the receptibility conditions of speech-acts; contingency is related to possibility, emergency, exigency of a people that can always re-constitute themselves, with reference to a past that has (never) happened and to a future that has (yet) to happen. Thus a wish-to-hear requires *semantic futurity* in re-interpreting the norms of the past that constituted the silent presence that nevertheless speaks by being always already there from the start, since the constitutive address of our own law.

Just as Rancière argued, "[v]isible forms yield a meaning to be construed or subtract it" (2007, 7) in order to arrive at the material presence and the history of rules of speech-acts that constituted it. Thus the image has a history, a frame that (un-)familiarizes, forms and gives familiar faces to some strangers, while effacing, deforming the image of others. Imaginative poetics that reiterates this history as a shared past of the strangers definitely helps expand the frame, yet the force of this gesture remains a power of the ethical as the domain of a shared life. As a violent force that aims to put an end to the past cycles of violence and revenge, the mode of the address finds a hope for a new ethos that can be politicized by the central figure of the *aporoï* that, although foreclosed, always already share the life of the self, the 'we,' and the present. Functioning as a non-normative norm, it too resolves the aporias of the people by unjustified speech-acts irresponsible and irresponsible from the present's point

of view, but it is also felt as the law of the 'here and now' rupturing the violent law of the past that dominates the present. In other words, the norm of the ethics of responsiveness is mainly *futural*, re-articulating past norms wrought by violence, inequality, exclusion, foreclosure, of deathlike lives as ethical resources for the future community of sense where we can sense and respond to an universal strangeness.

Thus the image asks us to be both imaginative and ethical; "still within the language of bequest and imperative...[its] voice says, "Invent a hope for speech" (*Ibid.*, 220), where speech is just a historical mode of address that through it unjustified, limited and limiting norms of making sense, preclude hearing and responding to otherness constituted in the past, by violence. As the demand the image makes on us is to locate the future in the past imagined to be otherwise, find hope in the hopeless, life in the unliving, the unsayable in the saying of the face, this is also a shared past of anyone where the other has always already addressed us by an act of speech, i.e., by its silently not-being there, suffering a lack of response to its insensible presence. And "there remains the question of what other time might yet be possible...[that can] open up a future beyond catastrophe" (*Ibid.*, 221), a time besides the past that has always been the present. Another time enters the history of violence when our lives are interrupted by the unliving, our temporality disoriented by the silent address of the image.

Thus the image is a recurring moment of the people in their unidentifiable identity taken hostage by their own law, unable to hear and move on for the fear of violence that may follow the violence of the past. If temporality is materialized by a mythical law, an address is embodied by the 'we,' and a communal space is created by walls of silence, what is foreclosed from but always within the image speaks from a community that has yet to come, once heard and mobilized to form the material conditions of a shared life imagined *otherwise*. The voice that is also a face, silenced and effaced, addresses 'an open-ended 'we' and an utterance that extends through time" (*Ibid.*, 222) of the unliveable shared life inherited from

the past: whereas the 'must' refers to the law of the past, the 'ought' of the response refers to a future self, to a democracy to come. It asks us "to live outside the defining threat of death," (*Ibid.*, 223), addressing us toward a future community of sense where it will finally be heard. Thus the wish-to-hear it is to wish for a shared life imagined to be *otherwise*.

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